

Part 139
Certification and Operations: Land
Airports Serving Certain Air Carriers

This edition replaces the existing loose-leaf
Part 139 and Change 1.

This FAA publication of the basic Part 139, effective January 1, 1988,
incorporates Amendments 139-1 through 139-21 with preambles.

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ber 18, 1987 (52 FR 44276). This publication of the basic Part 139 incorporates Amendments 139-14 through 139-21; however, Part 139 preambles from 1972 through 1984 (Amendments 139-1 through 139-13) have been included as historical background.

Bold brackets [] throughout the regulation indicate the most recently changed or added material for that particular subpart. The amendment number and effective date of new material appear in bold brackets at the end of each affected section.

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Interested persons have been afforded an opportunity to participate in the making of these regulations by a Notice of Proposed Rule Making (Notice 71-14) issued on May 10, 1971, and published in the Federal Register on May 14, 1971 (36 F.R. 8880). Due consideration has been given to all comments presented in response to that Notice.

As stated in Notice 71-14, section 51 of the Airport and Airway Development Act of 1970 added to the Federal Aviation Act of 1958 a new section 612 that authorizes the Administrator to issue airport operating certificates to airports serving air carriers certificated by the Civil Aeronautics Board, and to establish minimum safety standards for the operation of these airports. Section 612 originally provided that such terms, conditions, and limitations as are reasonably necessary to assure safety in air transportation must be prescribed, including those relating to the installation, operation, and maintenance of adequate air navigation facilities, and to the operation and maintenance of adequate safety equipment. Under Public Law 92-174, approved November 27, 1971, the reference in section 612(b) of the Act to air navigation facilities has been removed and a new provision added stating that, "[U]nless the Administrator determines that it would be contrary to the public interest, such terms, conditions, and limitations shall include but not be limited . . ." to those relating to adequate safety equipment.

Any person desiring to operate an airport of the kind involved may apply to the Administrator for an airport operating certificate, and the Administrator is directed to issue the certificate if he finds, after investigation, that that person is properly and adequately equipped to conduct a safe operation. The 1970 Act also added to section 610(a) of the Federal Aviation Act of 1958 a provision prohibiting any person from operating an airport of the kind involved without an airport operating certificate, or in violation of the terms of the certificate. This prohibition, as stated in the 1971 amendment, is effective May 21, 1973.

Also as stated in Notice 71-14, this Part applies only to airports that regularly serve scheduled air carriers operating large aircraft (aircraft of more than 12,500 pounds, maximum certificated takeoff weight), other than helicopters. The words "land" and "into those airports" have been added in the applicability section (§ 139.1) to clarify this in two respects. It is not intended to cover seaplane bases by this Part. Nor is it intended to cover by this Part airports that serve only small aircraft operated by air carriers that operate large aircraft into other airports.

Further rules will be developed, as soon as possible and in such depth as will comply with the legislative mandate, as to all other airports serving air carriers certificated by the Civil Aeronautics Board. In addition, action will be taken to amend Part 121 of the Federal Aviation Regulations to prohibit operations by air carriers, after May 20, 1973, into airports that do not hold airport operating certificates.

Approximately 170 public comments were received in response to Notice 71-14. The proposals of most concern were those having the highest potential economic impact, namely, the requirements for airport fire fighting and rescue equipment and service, and for public protection. For the most part, this concern was based upon the airport operators' estimates of what it would cost to provide that equipment and service, and to fence the airport. These estimates were high, due in part to misunderstanding regarding the use of volunteer firefighters instead of paid professionals (§ 139.49), and the difference between the cost of a fence that would prevent "inadvertent" entry to air operations areas and one that would prevent "unauthorized" entry (proposed § 139.67). In addition, these commentators did not recognize, in their cost estimates, the fact that both airport fire fighting and rescue equipment and fencing are eligible items under the airport development aid program.

The rules now issued for these two areas of most concern have been changed, after further consideration, to clarify and somewhat relax the requirements. Thus, § 139.49 (Airport fire fighting and rescue equipment and service) does not require fire fighting and rescue personnel to be "in the employ" of the airport operator. This accommodates the use of volunteers and personnel provided through contracts with the military or other agencies, as well as salaried employees of the airport itself. The same change has been made in § 139.23 (Personnel), that applies generally to available personnel. Section 139.65 (Public protection), as issued, has been changed to require safeguards to guard only against the inadvertent entry

of the tower; in most cases substantial redesign and construction would be required to effectively improve the existing line-of-sight situation; existing tower location and height should not be allowed to impede or control future desirable airport construction and development; weather factors such as fog, rain, snow, and dust preclude clear line of sight to portions of the airport, approach zone, and traffic pattern; and the regulations should not close the door to the use of closed circuit television, airport surface traffic control systems, and other future advances in technology. In the light of these comments and further consideration, it has been determined that the provision need not be included here as a certification item, particularly since the FAA funds and builds these tower facilities, and contractual agreements between the FAA and the airport operators can be the means of obtaining control tower visibility. With the elimination of this provision, the sections that followed it in Subpart D according to Notice 71-14 have been re-numbered accordingly.

In the light of the public comments, and after further consideration, additional appropriate changes, none of them beyond the scope of Notice 71-14, have been made in the provisions as issued. Thus, as a clarifying provision, the word "airport" is added to "operations manual." The changes of substance are discussed here according to the particular section of this Part involved.

As to Subpart B (Certification). Commentators generally felt they could not prepare the application and manual within the 60 days following the effective date of the Part § 139.13). This has been changed to provide for application within 120 days.

As proposed, the contents of airport operating certificates (§ 139.15) would include "the kinds of operations authorized for use by the certificate." Some commentators questioned the meaning of this provision. It has been determined not to specify "kinds of operations" on the certificate, and this item has been eliminated. Some commentators questioned the requirements for "airport limitations" on the certificate. However, this provision is considered an appropriate content of the certificate and, as issued, the rule requires it.

A number of commentators asserted that the right to deviate from the operating rules in an emergency should not require authorization from the Administrator for the particular deviation. As issued, § 139.21 provides that in emergency conditions a certificate holder may deviate from any operations requirement requiring the transportation of persons or supplies for the protection of life or property, and that in such case he must report the deviation in writing to the FAA as soon as practicable.

As stated above, the proposals of most concern to the commentators on Notice 71-14 were those having the highest potential economic impact, namely, the requirements for airport fire fighting and rescue equipment and service, and for public protection. Moreover, the 1971 amendment to section 612(b) of the Act specifically provides that the terms, conditions, and limitations on each airport operating certificate that are "reasonably necessary to assure safety in air transportation" shall include those relating to adequate safety equipment "unless the Administrator determines that it would be contrary to the public interest." In view of these considerations, § 139.19 as issued specifically provides for petitions for exemption from the safety equipment requirements of § 139.4 (Airport fire fighting and rescue equipment and service), § 139.53 (Traffic and wind direction indicators), and § 139.6 (Public protection), on the grounds that compliance would be contrary to the public interest. Petitions will be submitted and processed under Part 11 (General Rule-Making Procedures) of the Federal Aviation Regulations. As to an airport that is in operation before the effective date of this Part, a petition for exemption from the safety equipment requirements must be submitted no later than 69 days after that effective date. In this way, a favorable determination may be reflected in the airport operations manual when approved. As to an airport that is not in operation on the effective date of this Part, an 180-day lead time is provided. As required by Part 11, a petition must contain any information, views, or arguments available to the petitioner to support the action sought, the reasons why the granting of the request would be in the public interest and, if appropriate, the reason why the exemption would not adversely affect safety or the action to be taken by the petitioner to provide a level of safety equal to that provided by the rule from which the exemption is sought. If the FAA determines that the petition discloses adequate reasons and that

declaration of policy in section 103(b) of the Federal Aviation Act of 1958 stating that the "promotion, encouragement, and development of civil aeronautics" is to be considered as being in the public interest. Of course, relief by exemption may be applied for under Part 11 at any time in situations other than those covered by § 139.18.

As to Subpart C (*Airport Operations Manual*). A number of comments concerned the required contents of the manual (§ 138.33). Some suggested removing "traffic patterns" from the required contents of the manual because the FAA prescribes these in Part 91 of the Federal Aviation Regulations. This language has been dropped, but there has been substituted "arrival and departure routes in the immediate vicinity of the airport" as an item of airport familiarization that would, in the training process, provide airport employees with information on the problems associated with the terrain features around the airport and those areas where most accidents may occur. Some commentators also suggested removing separate descriptions of air operations areas and other areas, and appropriate references to the Federal Aviation Regulations, as matters that would impose a large workload with very little justification. These suggestions have been adopted. As proposed, this section would require the manual to include a current utility layout plan for the airport. A number of commentators objected to this requirement because it would entail too bulky an item for inclusion in the manual. This requirement has been worded to require the manual only to show that a utility layout plan is in existence and where it is located. Also, pursuant to adverse comments (many commentators asserted they did not know the Federal Aviation Regulations and other regulations well enough to be sure that nothing in the manual was contrary to them), the requirement that the manual not be contrary to any Federal regulation or the applicable airport operating certificate has been dropped. Finally, the proposed paragraph (b) of § 139.33 has been dropped at this point, since it concerned compliance by airport personnel, a matter that is covered in § 139.81.

As to Subpart D (Certification; Eligibility). As proposed, § 139.43 (Pavement areas) would require the applicant for an airport operating certificate to show, among other things, that runway pavement roughness does not vary (within specified tolerance), and that the size of aggregate for the top course of runway pavement does not exceed one-quarter inch in size. A large number of commentators objected to these requirements. They both have been dropped, as they more appropriately belong in construction standards.

Some changes have been made, largely for clarification purposes, from the proposed language of § 139.45 (Safety areas), including added references, to certain safety areas, as those located or extended in accordance with the applicable criteria used at the time of construction. Some airports and runways were originally built under the older "landing strip" concept that was not as extensive as a more recently adopted concept of "runway safety area." It is not proposed to require already constructed "landing strips" to be enlarged, and the requirements of § 139.45 accordingly are applied to the pertinent area as it existed when constructed.

A number of commentators objected to the proposed requirement in paragraph (b) of § 139.47 (Marking and lighting runways, thresholds, and taxiways) that the applicant have a sufficient supply of emergency lights for installation on a lighted main runway in case of failure of the primary lighting system. Concern was expressed over the initial and maintenance costs of these lights, and the length of time required to move them from storage and place them on the runway. Some stated (reasonably, it is believed) that the cause of the failure of the runway lights probably could be corrected before the emergency lights could be placed, or stated that sufficient alternate airports were available to which aircraft could be directed. The requirement has been eliminated, since it is believed that as long as pilots and dispatchers have been apprised of the problem through the use of Notices to Airmen the outage is an economic factor rather than a safety one.

As stated above, one of the provisions of most concern that was proposed in Notice 71-14 contained the requirements for airport fire fighting and rescue equipment and service (§§ 139.49 and 139.89). The comments made on this matter, approximately 156 in number, ranged from the suggestions that no fire protection was needed on the airport to suggestions that minor revisions should be made in the wording of the requirements, and also ranged from assertions that too little equipment was to be required to

determined. As proposed, the Index (now designated alphabetically rather than numerically) is determined by the longest aircraft serviced by the airport. One commentator suggested that the Indexes be related to length of the aircraft fuselage rather than overall length. It must be noted that overall length was selected as the most feasible feature of aircraft for this purpose, rather than such features as actual number of passengers, fuselage length, or type of fuel used. As proposed, where the airport served fewer than an average of 5 scheduled departures per day of aircraft of one Index the next lower Index would apply. This would mean that if an airport served Index No. II aircraft 2 times a day and Index No. IV aircraft once a day, the applicable Index would be Index III, for which the airport would be required to maintain that level of fire protection for only 3 operations a day. (In this connection, the 5-departure per day cutoff was questioned by several commentators. This cutoff was selected as the most appropriate limit, involving a substantial number of persons carried, for the requirement of only one light-weight vehicle with the prescribed extinguishing agents.) Upon further consideration, the section has been recast to include a more equitable provision, that where the airport serves an average of fewer than 5 scheduled departures per day by air carrier users, the required fire fighting and rescue equipment would be those assigned to the lowest Index. Also, as issued, the section provides that where the airport serves at least (not fewer than) 5 scheduled departures per day but not 5 aircraft of any one index aircraft, the required equipment is that prescribed by the Index next below that applicable to the longest aircraft operated by the air carrier users served by the airport. Although less restrictive than proposed, the changed provision is considered to provide an acceptable level of protection.

Another item that prominently concerned commentators was the proposed requirement that the applicant for an airport operating certificate must show by a demonstration run that its required fire fighting and rescue vehicles could *as a group* reach any air operations area within 3 minutes from the time of the alarm to the time of initial agent application. Further consideration indicates that fire fighting technique does not require all vehicles to arrive simultaneously, and that an adequate level of safety is provided if one required vehicle can meet the 3-minute response time, with the next required vehicle arriving within 4 minutes, and any other required vehicles arriving within 4½ minutes. Also, for demonstration purposes the accident scene will be considered the runway midpoint furthest from the vehicle's assigned post (a more definite provision than proposed) and this is prescribed by § 139.49 as issued. In this connection, the rule does not require the equipment to be "on the airport," as the Notice would have required, for some commentators pointed out that some operators have their equipment outside of but adjacent to their airports.

Another item of concern to commentators was the proposed provision of § 139.89 for a return to required service level within 72 hours or limitation of air carrier user operations to those envisaged by the next lower Index level providing the protection capability of its remaining equipment, when a required fire fighting and rescue vehicle becomes inoperable. It is recognized that circumstances may make it extremely difficult, if not impossible, to repair disabled vehicles within 72 hours, and the time period has therefore been extended to 10 calendar days.

Many commentators opposed § 139.51 (Handling and storing hazardous articles and materials) as proposed, in large part for the asserted reason that the airport operator has no direct control over the acts of its tenants and therefore should not be held responsible for them. In view of the coverage afforded by other regulatory requirements as to cargo handling and storing, the provision concerned with a required showing on this feature as to tenants on the airport has been removed from the rule as issued.

Several commentators opposed the requirements for traffic and wind direction indicators (§ 139.53). However, this requirement is considered necessary in the interest of safety.

The commentators generally favored requiring each airport operator to have an emergency plan to handle emergency situations (§ 139.55), and this provision is included in the rule as issued, with minor language changes.

Many commentators objected to the required showing of daily self-inspection capability (§ 139.57), asserting that inspections vary depending upon the size of the airport, or that at busy airports more

further consideration indicates that proper recognition was not given to the fact that some technical obstructions (such as trees or building) may be located between or behind more prominent obstructions. Flexibility is now afforded by the addition of a provision that marking and lighting of the identified obstructions affected will not be required when it is determined to be unnecessary by an FAA aeronautical study.

As to protection of nav aids (now § 139.63), a number of commentators objected to the proposal, particularly with reference to protection of Federal nav aids. Two changes have been made. First, the nav aids for which procedures for protection against facility construction must be shown by the applicant are limited to those for which an FAA study has determined that the construction would derogate operation of the nav aids. Second, the required protection of nav aids against vandalism and theft is modified to provide only for assistance to the owner if the latter is another person, rather than the complete protection in all cases envisioned by some commentators as requiring fencing in of Federal nav aids, alarm systems, and extra guards.

Several changes have been made in § 139.69 (Airport condition assessment and reporting) from the proposed § 139.71. The showing of procedures for dissemination of relevant information to air carrier users may involve either Notices to Airmen or "other means acceptable to the Administrator." Also, the information dealt with by this requirement now includes the condition of presence of a large number of birds, previously proposed as a notification provision of the preceding section.

As to Subpart E (Operations). Section 139.81 (Operations rules: general) has been changed to provide that the airport operator shall have sufficient airport personnel, and require that personnel, to comply with the approved airport operations manual in the performance of their duties. This accommodates comments that felt that to "maintain" personnel at least equal in quantity to the standards currently required for certification would be illusory in view of changes in personnel made from time to time.

Pursuant to comments, pavement areas that must be promptly repaired (§ 139.83) have been defined more realistically than as proposed. Also, stated in Notice 71-14, the requirement for measuring runway slipperiness characteristics anticipated the availability of FAA-approved equipment for measurement. This anticipation has not been fulfilled, and in the absence of the development of an approved standard for measurement of the coefficient of friction the requirement has not been implemented by these regulations as issued. However, the requirement may be made at a later time.

The operations requirements of § 139.49 (Airport fire fighting and rescue equipment and service) have been attuned to § 139.49 as changed. The required 2-year retention of self-inspection records has been changed to 6 months (§ 139.91).

In consideration of the foregoing, Title 14 of the Code of Federal Regulations is amended, effective July 21, 1972, by adding the following new Part 139 in Subchapter G.

Sections 313(a), 609, 610(a), and 612 of the Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1429, 1430; Public Law 91-258, 84 Stat. 234, 235, Public Law 92-174, 85 Stat. 492.

Amendment 139-1

Broadened Applicability—Certification of Airports Serving CAB-Certificated Air Carriers

Adopted: April 17, 1973

Effective: May 21, 1973

(Published in 38 F.R. 9795, April 20, 1973)

The purpose of this amendment to Part 139 of the Federal Aviation Regulations is to: (1) broaden the applicability of Part 139 to make it applicable to all airports serving air carriers certificated by the Civil Aeronautics Board; (2) provide for the issuance of airport operating certificates to airport operators that would be required by this amendment to comply with Part 139; and (3) provide separately certain certification and operations rules for heliports that are required by the nature of those airports.

June 21, 1972), stated that further rules would be developed to comply with the legislative mandate of section 612 of the Federal Aviation Act of 1958, as amended, as to all other airports serving air carriers certificated by the CAB. This amendment is issued to accomplish that purpose.

Airports that do not regularly serve CAB-certificated scheduled air carriers operating large aircraft, but do provide service to CAB-certificated air carriers, include airports that serve: (1) certificated supplemental air carriers; (2) certificated air carriers operating small aircraft (12,500 pounds or less maximum certificated takeoff weight); (3) certificated air carrier charter operations; and (4) certificated air carriers operating helicopters. This amendment enlarges the applicability of Part 139 to include these airports, in addition to those airports regularly serving scheduled air carriers operating large aircraft. Thus, all airports serving certificated air carriers will be required to comply with Part 139 and to have an airport operating certificate in order to serve these air carriers after May 20, 1973. This includes provisional and refueling airports serving certificated air carriers as provided for in Parts 121 and 127.

Comments received in response to Notice 73-8 were generally opposed to broadening the applicability of Part 139. It was asserted that compliance with the standards and equipment requirements of Part 139 was, in many cases, not feasible, and that the financial burden of compliance was disproportionate to the air service and safety benefits that might be realized. Several comments noted that budgeting and funding cycles for many State and local governments required as much as two years advance planning and that full compliance within the one-year period contemplated by the Notice was not possible.

The FAA recognizes that full compliance with Part 139 may, in many cases, impose an undue burden and be economically unreasonable, particularly for airports that only serve infrequent charter operations and those in remote and isolated areas of sparse population. In such cases, considerations of the public interest may outweigh the requirement for full compliance. Section 612 of the Federal Aviation Act specifically provides such exemption authority and 139.19 and Part 11 set forth the procedures for applying for exemptions. In this regard, it should be noted that the FAA will carefully review all factors related to an airports operation to determine whether an exemption should be granted. Although the standards and equipment requirements now contained in Part 139 are considered to be minimum requirements, they are the subject of continuing study, and where that study, or information brought to the attention of the FAA, shows that adjustment of those requirements is feasible, rule-making action will be taken.

The proposal in Notice 73-8 for certification of those additional airports to which Part 139 is now made applicable has been changed in the light of comments received. That proposal contemplated issuance of an airport operating certificate based on assurances of compliance with Part 139 within one year from the effective date of the certificate. The FAA recognizes that supplemental and charter air carrier operations are typically responsive to short-term or short-notice demands and that the random and unscheduled character of these operations prevents accurate forecasting of the additional airports that may be included in the applicability of Part 139 by this amendment. Thus, the number of airports desiring to service their operations may not be as great as anticipated. In any event, in view of the difficulties that have been encountered by some airports now being certificated, the FAA believes that, for the airports that would be required to comply with Part 139 by virtue of this amendment, it is desirable to provide for the issuance of airport operating certificates to those airports that may not be able to comply with all of the requirements of Part 139 before May 21, 1973.

The FAA has a substantial body of knowledge and data, based on documentation and operating experience, relating to those additional airports to which Part 139 will now be applicable. The FAA obtains data relating to all airports open to the public. Data relating to all airports serving air carrier aircraft, including those in the National Airport System Plan, is gathered by FAA field personnel, general aviation inspectors, air carrier inspectors, and flight inspection personnel who visit public airports and observe airport and operating rating conditions in the routine discharge of their duties. Additionally, where air traffic control towers or Flight Service Stations are located on or near airports, FAA personnel assigned to those facilities have an opportunity and duty to observe and report conditions. An air carrier

effective May 21, 1973, for a period of 45 days. That certification may be extended to May 21, 1974, if the airport operator, together with a request for such extension and request for delivery of the certificate, furnishes the name and address of the airport, the airport owner, and the airport operator, and his assurances that safety will be maintained at least at the level current on May 21, 1973. Holders of these provisional airport operating certificates would then be required to submit to the appropriate Regional Director before September 1, 1973, a schedule showing how compliance with each requirement will be achieved, except as those requirements with which the operator believes compliance is not feasible or in the public interest and for which an exemption is requested. Thereafter, the certificate holder would be required to submit, before January 15, 1974, a report showing to what extent compliance with Part 139 has been achieved. If the airport operator does not request extension of the 45-day provisional certificate before July 5, 1973, the certificate expires on that date.

It was asserted in several comments that in the enactment of section 612 of the Federal Aviation Act that Congress did not intend that airports other than airports regularly serving scheduled air carriers that hold certificates of public convenience and necessity issued by the CAB and operate large aircraft into those airports be certificated. The FAA believes that section 612 of the Federal Aviation Act applies to all airports that serve CAB-certificated air carriers, and that this rulemaking action is reasonable and necessary to comply with the Congressional mandate stated in the Act. In this connection, it should be noted that the section 610(a)(8) makes it unlawful for any person to operate an airport serving air carriers certificated by the CAB without an airport operating certificate, or in violation of the terms of any such certificate. By this amendment, Part 139 is broadened to be made applicable to those four categories of air carrier operations listed above in this preamble in order to cover all airports serving CAB-certificated air carriers. However, it is not intended that Part 139 be applicable to airports at which air carrier training, ferry, check, or test operations are conducted, by reason of these operations. These airports are not by reason of these operations considered to be "serving" air carriers.

One comment was received relating to the proposal to issue airport operating certificates that expire in one year to those additional airports. The commentator suggested that these certificates be issued for a longer period. With respect to these certificates, the FAA feels that the one-year duration of provisional airport operating certificates will enable the FAA to work out problems and programs with airport operators, to determine to what extent any exemption requested may be justified, and at the end of the one-year period issue regular certificates for the provisional certificates.

Another comment objected to the requirement in present §§ 139.13 and 139.31 for airport operations manuals and recommended that this requirement be applicable only to airports which have more than 500 air carrier departures annually. The FAA does not agree. The airport operations manual is an essential document showing how compliance is to be achieved, and serves as a guide and reference for airport operators and other airport personnel.

A criticism of present § 139.19, relating to petitions for exemption from safety equipment requirements was made to the effect that the section was redundant and unduly restrictive in view of the provisions in Part 11 providing for petitions for exemptions. It should be noted that § 139.19 provides for exemptions from certain specified requirements based on a finding that compliance would be *contrary* to the public interest, in accordance with the requirements of section 612 of the Act, whereas Part 11 provides for general exemptions based on a finding that the exemption would be in the public interest.

One comment recommended that the firefighting equipment requirement under § 139.49 be applicable, at airports which serve only small aircraft, only if such requirement is stated on its operating certificate. The FAA believes that the firefighting equipment requirement applicable to Index A is the minimum general standard for an airport. However, if an operator believes that compliance is not feasible or reasonable and that public interest considerations justify an exemption, he may file a petition for an exemption. Such petitions will be given full and due consideration by the FAA.

In connection with § 139.49, it should be noted that for the purpose of identifying firefighting and rescue equipment and service requirements, an airport, including heliports, which serves fewer than five

ment, various as authorized by the Administrator. In some cases, petitions for exemption may be justified by the circumstances.

Based on further consideration in view of comments received in response to the Notice, the FAA has concluded that airports that serve air taxi operations conducted pursuant to a route substitution agreement with an air carrier are not "serving" a CAB-certificated air carrier. It appears from the legislative history of section 612 of the Act that the airport certification requirements do not apply to those airports serving air taxis as a result of these agreements. In this respect, it should be noted that an air taxi operator operates under an exemption issued by the CAB and therefore is not an air carrier certificated by the CAB.

The FAA does not agree with another comment that Part 138 should not apply to airports that are used for "refueling" by a CAB-certificated air carrier. These airports come within the purview of section 612, since they are rendering definite services to the air carriers and as such are serving CAB-certificated air carriers and are required to comply with Part 139.

Finally, It should be noted that Part 139 is limited to "land" airports. The FAA is aware that there are a few CAB-certificated air carriers operating seaplanes (or float planes) in Alaska. These operations are conducted in small aircraft into remote unattended water bodies without delineated landing areas on an infrequent basis where land airports and facilities cannot be justified or maintained. If there are any facilities at all, they consist of nothing more than a floating dock or ramp which are used by both boats and aircraft. Furthermore, many of the water bodies are in the public domain and there is no identifiable operator. The FAA does not believe such airports come within the intent of the airport certification requirements of the Federal Aviation Act.

In consideration of the foregoing, Part 138 of the Federal Aviation Regulations is amended, effective May 21, 1973.

These amendments are made under the authority of sections 313(a), 608, 610(a), and 612 of the Federal Aviation Act of 1958; 49 U.S.C. 1354(a), 1429, 1430; Public Law 91-258, 84 Stat. 234, 235; Public Law 174, 85 Stat. 492.

Amendment 139-2

Airports and Heliports Serving Air Carriers Conducting Only Unscheduled Operations or Operations With Small Aircraft: Extension of Reporting Dates

Adopted: June 28, 1973

Effective: July 4, 1973

(Published in 38 F.R. 17714, July 3, 1973)

The purpose of this amendment to § 139.12 of Part 139 of the Federal Aviation Regulations (FARs) is to extend from July 5, 1973 to October 5, 1973, the time within which persons, who on May 20, 1973, were operating an airport or heliport serving a CAB-certificated air carrier conducting only unscheduled operations or operations with small aircraft, may apply for an extension of their airport operating certificate, and to extend the time for filing the reports required of holders of these certificates.

Part 139 of the Federal Aviation Regulations provides for the issuance of airport operating certificates for land airports serving CAB-certificated air carriers. As originally adopted, Part 139 were applicable only to land airports serving "scheduled" air carriers operating large aircraft (other than helicopters). Amendment 139-1 (38 F.R. 9795) published in the Federal Register on April 20, 1973, amended Part 139, effective May 21, 1973, to make it applicable to all airports serving air carriers certificated by the Civil Aeronautics Board. As noted in the preamble to Amendment 139-1, the FAA recognized that the additional airports that are required to comply with Part 139 by virtue of Amendment 139-1 would not be able to comply with all of the requirements of Part 139 before the May 21, 1973 effective

or that section.

It now appears to the FAA that the 45-days provisional certification period provided in § 139.12 of Amendment 131 does not provide sufficient time for the operators of those airports to determine the extent to which they may not be in full compliance with Part 139 and the consequent need to apply for an extension of their provisional certificate. In addition, the FAA believes that the operators of many small airports that only infrequently serve a CAB-certificated air carrier may not be aware that they are required to comply with Part 139. In this connection it should be noted that § 610(a)(8) of the Federal Aviation Act of 1958, as amended, makes it unlawful for any person to operate after May 20, 1973, an airport serving air carriers certificated by the Civil Aeronautics Board without an airport operating certificate or in violation of the terms of any such certificate.

In view of the foregoing and in order to assure that all airport operators who serve CAB-certificated air carriers have a reasonable time in which to comply with the requirements of Part 139, the FAA has determined that there is a need to extend from July 5, 1973 to October 5, 1973, the time within which the operators of airports provisionally certificated under § 139.12(a) may meet the requirements of § 139.12(b) in order to apply for an extension of that certificate to May 21, 1974. Consistent with this amendment and to assure compliance with the requirements of Part 139 by May 21, 1974, the dates on which an airport operator must comply with the reporting requirements of § 139.12(e)(2) and (3) need to be extended from September 1, 1973, and January 15, 1974, to November 1, 1973, and February 15, 1974, respectively.

Since this amendment is an extension of the effective dates of new requirements and imposes no additional burden on any person, I find that notice and public procedures thereon are unnecessary and that good cause exists for making this amendment effective on less than 30 days' notice.

This amendment is made under the authority of sections 313(a), 609, 610(a), and 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1429, 1430(a), and 1432), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, § 139.12 of Part 139 of the Federal Aviation Regulations is amended as follows, effective July 4, 1973.

Amendment 139-3

Airports and Heliports Serving Air Carriers Conducting Only Unscheduled Operations or Operations with Small Aircraft: Extension of Reporting Dates

Adopted: September 25, 1973

Effective: October 4, 1973

(Published in 38 F.R. 27294, October 2, 1973)

The purpose of this amendment to § 139.12 of Part 139 of the Federal Aviation Regulations is to extend from October 5, 1973 to December 15, 1973 the time within which persons who on May 20, 1973 were operating an airport or heliport serving a CAB-certificated air carrier conducting only unscheduled operations or operations with small aircraft may apply for an extension of their airport operating certificate, and to extend the time for submitting a schedule of compliance showing how compliance with the requirements of Part 139 will be achieved.

Part 139 of the Federal Aviation Regulations provides for the issuance of airport operating certificates for land airports serving CAB-certificated air carriers. As originally adopted, Part 139 was applicable only to land airports serving "scheduled" air carriers operating large aircraft (other than helicopters). Amendment 139-1 (38 F.R. 9795) published in the Federal Register on April 20, 1973, amended Part 139, effective May 21, 1973, to make it applicable to all airports serving air carriers certificated by the Civil Aeronautics Board. As noted in the preamble to Amendment 139-1, the FAA recognized that the additional airports that are required to comply with Part 139 by virtue of Amendment 139-1 would

of the airport operator prior to July 5, 1973, and compliance by the operator with the requirements of that section.

On June 28, 1973, the FAA issued Amendment 139-2 to Part 139 (38 F.R. 1774; July 3, 1973) amending § 139.12 by extending the July 5, 1973 date to October 5, 1973 (the time within which the operators of airports provisionally certificated under § 139.12(a) may meet the requirements of § 139.12(b) in order to apply for an extension of that certificate to May 21, 1974), and by extending the dates within which airport operators must comply with the reporting requirements of § 139.12(e)(2) and (3) from September 1, 1973 and January 15, 1974, to November 1, 1973, and February 15, 1974, respectively, it then appearing to the FAA that the 45-day provisional certification period originally provided for in § 139.12 of Amendment 131 did not allow sufficient time for operators of those airports to determine the extent to which they might not be in full compliance with Part 139 and the consequent need to apply for an extension of their provisional certificate.

On September 10, 1973 the FAA issued a Notice of Proposed Rule Making (Docket No. 13202, Notice No. 73-25; 38 F.R. 26389, September 20, 1973) which proposes amendment of Part 139 to clarify the meaning of the word "serving" used in prescribing the applicability of the part and in certain provisions of the part, including § 139.12.

The FAA has received considerable comment and recommendations regarding the broadened applicability of Part 139 to include all airports serving CAB-certificated air carriers. A substantial number of those comments assert that it is unreasonable and unrealistic to consider those airports or landing areas, which only infrequently or occasionally, or seasonally, accommodate air carrier operations, as "serving" air carriers. It is further asserted that the economic and practical burdens of complying with the requirements of Part 139 in these circumstances are disproportionate to the benefits of the air carrier operation and unnecessary, by reason of the infrequent or occasional character of the air carrier activity.

The FAA believes, in the light of comments received and based on additional airport data and information collected during the course of the airport certification program, that a distinction may reasonably and properly be made between airports, for certification purposes, based on "frequency-of-operation." Precedent is found for this kind of distinction in § 121.7 of Part 121 of the Federal Aviation Regulations, which requires intrastate common carriage by commercial operators to be conducted in accordance with rules applicable to domestic air carriers, if the commercial operator's activity exceeds certain specified rates, i.e., a total of 36 or more flights or 18 or more round trips in any 90 consecutive days. This provision was incorporated in the regulations applicable to commercial operators in 1949, and no reasons based on safety considerations for abolishing this frequency-of-operation distinction have become apparent.

Accordingly, the FAA has proposed in Notice No. 73-25 to amend Part 139 to clarify and give definition to the term "serving" as used in the Part. As proposed therein Part 139 would be applicable to any airport expected to be used by scheduled air carriers as a regular, provisional, or refueling airport. Such airports are identified in air carrier operations specifications and have well defined meanings, as follows: a *regular airport* is an airport approved as a regular terminal or intermediate stop on an authorized route; a *provisional airport* is an airport approved for use by an air carrier for the purpose of providing service to a community when the regular airport serving that community is not available; a *refueling airport* is an airport approved as an airport to which flights may be dispatched only for fueling. The Part would also be applicable to airports expected to be used by air carrier users when the "frequency-of-operation" is 36 or more flights in any period of 90 consecutive days. The effect of this amendment, if adopted, would be to narrow the applicability of Part 139.

In view of the foregoing and in order to allow time for receipt of views and comments in response to Notice 73-25, and time for consideration of those views and comments, prior to possible rule making, the FAA has determined that there is a need to extend from October 5, 1973 to December 15, 1973, the time within which the operators of airports provisionally certificated under § 139.12(a) may meet the requirements of § 139.12(b) in order to apply for an extension of that certificate to May 21, 1974, and to extend from November 1, 1973, to December 15, 1973, the time within which a certificate holder under § 138.12 would be required to submit a schedule for compliance showing how compliance

In consideration of the foregoing, § 139.12 of Part 139 of the Federal Aviation Regulations is amended, effective October 4, 1973.

Amendment 139-4

Airports and Heliport Serving Air Carriers Conducting Only Unscheduled Operations or Operations With Small Aircraft: Extension of Reporting and Termination Dates

Adopted: December 12, 1973

Effective: December 15, 1973

(Published in 38 F.R. 34461, December 14, 1973)

The purpose of this amendment to § 139.12 of Part 139 of the Federal Aviation Regulations is to extend from December 15, 1973, to April 2, 1974, the time within which persons who on May 20, 1973 were operating an airport or heliport serving a CAB-certificated air carrier conducting only unscheduled operations or operations with small aircraft may apply for an extension of their airport operating certificate, to extend the time for submitting a schedule of compliance showing how compliance with the requirements of Part 139 will be achieved, and to extend the termination date for provisional operating certificates.

Part 139 of the Federal Aviation Regulations provides for the issuance of airport operating certificates for land airports serving CAB-certificated air carriers. As originally adopted, Part 139 was applicable only to land airports serving "scheduled" air carriers operating large aircraft (other than helicopters). Amendment 139-1 (35 F.R. 9795) published in the Federal Register on April 20, 1973, amended Part 139, effective May 21, 1973, to make it applicable to all airports serving air carriers certificated by the Civil Aeronautics Board. As noted in the preamble to Amendment 139-1, the FAA recognized that the additional airports that are required to comply with Part 139 by virtue of Amendment 139-1 would not be able to comply with all of the requirements of Part 139 before the May 21, 1973 effective date. The FAA had determined that those airports were able to conduct a safe operation, and that provisional airport operating certificates, subject to such terms, conditions and limitations as the Administrator finds are reasonably necessary to assure safety in air transportation, should be issued to those airports pending their compliance with Part 139. Accordingly, a new § 139.12 was added to Part 139 which provisionally certificated for a period of 45 days (until July 5, 1973) airports and heliports which, on May 20, 1973, were serving CAB-certificated air carriers conducting only unscheduled operations or operations with small aircraft in order that they might continue to serve such air carriers pending compliance with Part 139. Section 139.12 also provided for the extension of that certification to May 21, 1974, upon the request of the airport operator prior to July 5, 1973, and compliance by the operator with the requirements of that section.

On June 28, 1973, the FAA issued Amendment 139-2 to Part 139 (38 F.R. 1774; July 3, 1973) amending § 139.12 by extending the July 5, 1973 date to October 5, 1973 (the time within which the operators of airports provisionally certificated under § 139.12 (a) may meet the requirements of § 139.12(b) in order to apply for an extension of that certificate to May 21, 1974), and by extending the dates within which airport operators must comply with the reporting requirements of § 139.12(e)(2) and (3) from September 1, 1973 and January 15, 1974, to November 1, 1973, and February 15, 1974, respectively, it then appearing to the FAA that the 45-day provisional certification period originally provided for in § 139.12 of Amendment 139-1 did not allow sufficient time for operators of those airports to determine the extent to which they might not be in full compliance with Part 139 and the consequent need to apply for an extension their provisional certificate.

On September 10, 1973 the FAA issued a Notice of Proposed Rule Making (Docket No. 13202, Notice No. 73-25; 38 F.R. 26389, September 20, 1973) which proposed amendment of Part 139 to

carrier operation and unnecessary, by reason of the infrequent or occasional character of the air carrier activity.

The FAA believed, in the light of comments received and based on additional airport data and information collected during the course of the airport certification program, that a distinction might be made between airports, for certification purposes, based on "frequency-of-operation." Accordingly, the FAA proposed in Notice No. 73-25 to amend specificity to the term "serving" as used in the Part. As proposed therein Part 139 would have been applicable to any airport expected to be used by scheduled air carriers as a regular, provisional, or refueling airport, and to airports expected to be used by air carrier users when the "frequency-of-operation," was 36 or more flights in any period of 90 consecutive days. The effect of the proposed amendment, if adopted, would have been to narrow the applicability of Part 139.

In order to allow time for receipt of views and comments in response to Notice 73-25, and time for consideration of those views and comments, prior to possible rule making, the FAA issued Amendment 139-3 to Part 139 (38 F.R. 27294; October 2, 1973) extending from October 5, 1973, to December 15, 1973, the time within which the operators of airports provisionally certificated under § 139.12 (a) might meet the requirements of § 138.12(b) in order to apply for an extension of that certificate to May 21, 1974, and extending from November 1, 1973, to December 15, 1973, the time within which a certificate holder under § 139.12 would be required to submit a schedule for compliance showing how compliance with each requirement of Part 139 will be achieved and any requests for exemptions from any of those requirements.

On further consideration, the FAA determined that the proposed amendment would not fully implement the intent of the Congress, and that all airports serving CAB-certificated air carriers should be certificated. Accordingly, Notice 73-25 is being withdrawn. In view of this withdrawal the FAA believes an extension of time to comply with the requirements of Part 139 is necessary for those operators who may have anticipated exclusion under the proposal contained in Notice 73-25. Therefore, the FAA is further extending from December 15, 1973, to April 2, 1974, the time within which the operators of airports provisionally certificated under § 139.12(a) may meet the requirements of § 139.12(b) in order to apply for an extension of that certificate, and the period of the extension has been increased to October 15, 1974. In addition, the time within which a certificate holder under § 139.12 is required to submit a schedule for compliance showing how compliance with each requirement of Part 139 will be achieved and any requests for exemptions from any of those requirements is extended to April 2, 1974; and the last day for filing the supplementary compliance status report is extended to July 1, 1974.

Since this amendment is an extension of the effective dates of new requirements and imposes no additional burden on any person, I find that notice and public procedures thereon are unnecessary and that good cause exists for making this amendment effective on less than 30 days' notice.

This amendment is made under the authority of sections 313(a), 609, 610(a), and 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1429, 1430(a), and 1432), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, § 139.12 of Part 139 of the Federal Aviation Regulations is amended, effective December 15, 1973.

to extend from April 2, 1974, to August 15, 1974, the time within which persons who on May 20, 1973 were operating an airport or heliport serving a CAB-certificated air carrier conducting only unscheduled operations or operations with small aircraft may apply for an extension of their airport operating certificate, to extend the time for submitting a schedule of compliance showing how compliance with the requirements of Part 139 will be achieved, and to extend the termination date for provisional operating certificates.

Part 139 of the Federal Aviation Regulations provides for the issuance of airport operating certificates for land airports serving CAB-certificated air carriers. As originally adopted, Part 139 was applicable only to land airports serving "scheduled" air carriers operating large aircraft (other than helicopters). Amendment 139-1 (38 F.R. 9795) published in the Federal Register on April 20, 1973, amended Part 139, effective May 21, 1973, to make it applicable to all airports serving air carriers certificated by the Civil Aeronautics Board. As noted in the preamble to Amendment 139-1 the FAA recognized that the additional airports that are required to comply with Part 139 by virtue of Amendment 139-1 would not be able to comply with all of the requirements of Part 139 before the May 21, 1973 effective date. The FAA had determined that those airports were able to conduct a safe operation, and that provisional airport operating certificates, subject to such terms, conditions and limitations as the Administrator finds are reasonably necessary to assure safety in air transportation, should be issued to those airports pending their compliance with Part 139. Accordingly, a new § 139.12 was added to Part 139 which provisionally certificated for a period of 45 days (until July 5, 1973) airports and heliports which, on May 20, 1973, were serving CAB-certificated air carriers conducting only unscheduled operations or operations with small aircraft in order that they might continue to serve such air carriers pending compliance with Part 139. Section 139.12 also provided for the extension of that certification to May 21, 1974, upon the request of the airport operator prior to July 5, 1973, and compliance by the operator with the requirements of that section.

On June 28, 1973, the FAA issued Amendment 139-2 to Part 139 (38 F.R. 1774; July 3, 1973) amending § 139.12 by extending the July 5, 1973 date to October 5, 1973 (the time within which the operators of airports provisionally certificated under § 139.12(a) might meet the requirements of § 139.12(b) in order to apply for an extension of that certificate to May 21, 1974), and by extending the dates within which airport operators would comply with the reporting requirements of § 139.12(e)(2) and (3) from September 1, 1973 and January 15, 1974, to November 1, 1973, and February 15, 1974, respectively, it then appearing to the FAA that the 45-day provisional certification period originally provided for in § 139.12 of Amendment 139-1 did not allow sufficient time for operators of those airports to determine the extent to which they might not be in full compliance with Part 139 and the consequent need to apply for an extension of their provisional certificate.

On September 10, 1973 the FAA issued a Notice of Proposed Rule Making (Docket No. 13202, Notice No. 73-25; 38 F.R. 26389, September 20, 1973) which proposed amendment of Part 139 to clarify the meaning of the word "serving" used in prescribing the applicability of the part and in certain provisions of the part, including § 139.12.

In order to allow time for receipt of views and comments in response to Notice 73-25, and time for consideration of those views and comments, prior to possible rule making, the FAA issued Amendment 139-3 to Part 139 (38 F.R. 27294; October 2, 1973) extending from October 5, 1973, to December 15, 1973, the time within which the operators of airports provisionally certificated under § 139.12(a) might meet the requirements of § 139.12(b) in order to apply for an extension of that certificate to May 21, 1974, and extending from November 1, 1973, to December 15, 1973, the time within which a certificate holder under § 139.12 would be required to submit a schedule for compliance showing how compliance with each requirement of Part 139 will be achieved and any requests for exemptions from any of those requirements.

On further consideration, the FAA determined that the proposed amendment would not fully implement the intent of the Congress, and that all airports serving CAB-certificated air carriers should be certificated. Accordingly, Notice 73-25 was withdrawn. In view of this withdrawal the FAA believed an extension of time to comply with the requirements of Part 139 was necessary for those operators who may have

It now appears, with respect to airports to which § 139.12(a) is applicable that compliance with the generally applicable certification and operating requirements of Part 139 is, in many cases, infeasible and impracticable, and that requiring compliance in such cases would be contrary to the public interest.

A substantial group of airports now serve CAB-certificated air carriers conducting only unscheduled operations or operations with small aircraft. This group is estimated in size to number 345 airports. Unscheduled and small aircraft operations at many of these airports is irregular, occasional, infrequent, seasonal or temporary. Included in such operations are charter flights, supplemental air carrier flights, and flights of similar character to construction sites or recreation areas and the like.

The FAA considers that uniform application of the requirements of Part 139 is not feasible or practicable in many such cases and that provision should be made for certification of these airports on an individual basis, based on an investigation of operating circumstances and a subsequent finding made by the Administrator that the particular airport is properly and adequately equipped to conduct safe operations for the kind of air carrier operation to be conducted, and that compliance with certain other requirements of part 139 would be contrary to the public interest.

in the conduct of that preliminary investigation and in making that finding, the Administrator would review and evaluate airport characteristics, facilities, and equipment, including: landing area dimensions, strength, and condition; clearances; marking and lighting; firefighting and rescue capability; wind direction indicators; and airport safety surveillance capability.

Accordingly, the FAA is issuing a Notice of Proposed Rule Making (Notice No. 74-15; issued and published concurrently with this Amendment) to provide for certification of that group of airports to which § 139.12 is now applicable.

In view of the foregoing and in order to allow time for receipt of views and comments in response to Notice 74-15, and time for consideration of those views and comments, prior to possible rule making, the FAA has determined that there is a need to extend from April 2, 1974 to August 15, 1974 the time within which the operators of airports provisionally certificated under § 139.12(a) may apply for an extension of that certificate to December 15, 1974, and to extend from April 2, 1974, to October 15, 1974, the time within which a certificate holder under § 139.12 would be required to submit a schedule showing how compliance with each requirement of Part 139 will be achieved and any requests for exemptions from any of those requirements. The requirement for submission of a status report under § 139.12(e)(3) is extended from July 1, 1974 to November 15, 1974. Section 139.12 has also been revised for purposes of clarity and to make it clear that at least the level of safety at the airport on May 21, 1973 must be maintained during the extension periods provided for by this Amendment.

Since this amendment is an extension of the effective dates of new requirements and imposes no additional burden on any person, I find that notice and public procedures thereon is unnecessary and that good cause exists for making this amendment effective on less than 30 days' notice.

This amendment is made under the authority of sections 213(a), 609, 610(a), and 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1429, 1430(a), and 1432), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, § 139.12 of part 139 of the Federal Aviation Regulations is amended, effective April 1, 1974.

the certification and operation of land airports and heliports serving CAB-certificated air carriers conducting only unscheduled operations or operations with small aircraft.

This amendment is based on a Notice of Proposed Rule Making (Notice 74-15) issued in Washington, D.C., on March 27, 1974, and published in the Federal Register on April 1, 1974 (39 F.R. 11929). Interested persons have been afforded an opportunity to participate in the making of these amendments, and due consideration has been given to all comments received in response to that Notice.

Amendment 139-1 was published in the Federal Register on April 20, 1973, and became effective May 21, 1973. The purpose of the amendment was to: (1) broaden the scope of the regulation to make it applicable to all airports serving air carriers certificated by the Civil Aeronautics Board; (2) provide for the issuance of airport operating certificates to airport operators that would be required by that amendment to comply with Part 139; and (3) provide separately certain certification and operation rules for heliports that are required by the nature of those airports.

On July 4, 1973, Amendment 139-2 became effective and amended § 139.12 of the regulation by extending from July 5, 1973 to October 5, 1973, the time within which persons, who on May 20, 1973 were operating an airport or heliport serving CAB-certificated air carriers conducting only unscheduled operations or operations with small aircraft, might apply for an extension of their airport operating certificate, and to extend the time for filing the reports required of holders of these certificates,

Amendment 139-3, effective October 2, 1973, further extended the October 5, 1973, date to December 15, 1973.

Amendment 139-4, effective December 15, 1973, extended the December 15, 1973 date to April 2, 1974, in order to allow more time for an airport operator to apply for an extension of his provisional certificate and the deadline date for obtaining an airport operating certificate was extended from May 21, 1974 to October 15, 1974.

Section 139.12 of Part 139 provides for certification of airports and heliports which on May 20, 1973 served CAB-certificated air carriers conducting only unscheduled operations or operations with small aircraft. Airport operators who operate such airports and made application in accordance with § 139.12 have been issued "provisional" airport operating certificates. Under Amendment 139-4 these certificates were effective until October 15, 1974, after which date it was contemplated that certification of this group of airports would be accomplished in accordance with the certification and operating requirements generally applicable to air carrier airports serving scheduled operations under Part 139.

It now appears that compliance with the generally applicable certification and operating requirements is, in many cases, infeasible and impracticable, and that requiring full compliance with Part 139 in such cases would be contrary to the public interest.

A substantial group of airports now serve CAB-certificated air carriers conducting only unscheduled operations or operations with small aircraft. This group is estimated in size to number 345 airports. Unscheduled and small aircraft operation at many of these airports is irregular, occasional, infrequent, seasonal or temporary. Included in such operations are charter flights, supplemental air carrier flights, and flights of similar character to construction sites or recreation areas and the like.

The FAA considers that uniform application of the requirements of Part 139 is not feasible or practicable in many such cases and that provision should be made for certification of these airports on an individual basis, based on an investigation of the operating circumstances and a subsequent finding made by the Administrator that the particular airport is properly and adequately equipped to conduct safe operations for the kind of air carrier operation to be conducted, and that compliance with certain other requirements of Part 139 would be contrary to the public interest. In the conduct of that investigation and in making that finding, the Administrator would review and evaluate airport characteristics, facilities, and equipment, including: landing area dimensions, strength and conditions; clearances; marking and lighting; fire fighting and rescue capability; wind direction indicators; and airport safety surveillance capability. The proposal has been revised accordingly, as noted below, by setting forth an itemized listing of the

the airport operations, issuance of the certificate and airport operations specifications to the air carrier will be considered.

In order to allow time for receipt and consideration of comments in response to the proposal contained in Notice 74-15, § 139.12 of Part 139 was amended (Amendment 139-5 issued and published concurrently with Notice 74-15) to extend from April 2, 1974 to August 15, 1974 the time within which provisional airport operating certificates could be extended, to extend the time for submitting a schedule of compliance showing how compliance with the requirements of Part 139 would be achieved, and to extend the termination date of those certificates to December 15, 1974.

A number of comments received in response to Notice 74-15 reasserted the argument made in opposition to Amendment 139-1 (when the applicability of Part 139 was broadened) that, in the enactment of section 612 of the Federal Aviation Act, the Congress did not intend that airports, other than airports regularly serving scheduled air carriers that hold certificates of public convenience and necessity issued by the CAB and operate large aircraft into those airports, be certificated. The FAA believes that section 612 of the Federal Aviation Act applies to all airports that serve CAB-certificated air carriers, and that the rulemaking action was reasonable and necessary to comply with the Congressional mandate stated in the Act. In this connection, it should be noted that section 610(a)(8) makes it unlawful for any person to operate an airport serving air carriers certificated by the CAB without an airport operating certificate, or in violation of the terms of any such certificate.

Amendment 139-1 made Part 139 applicable, in addition to airports regularly serving scheduled air carriers operating large aircraft, to airports serving supplemental air carriers, certificated air carriers operating small aircraft (12,500 pounds or less maximum certificated takeoff weight), certificated air carrier charter operations, and certificated air carriers operating helicopters. However, it is not intended that Part 139 be applicable to airports at which air carrier training, ferry, check, or test operations are conducted, or to airports designated as "alternate" airports by air carriers, by reason of these operations. These airports are not by reason of these operations considered to be "serving" air carriers.

In general, and except as noted herein, the comment received in response to Notice 74-15 acknowledged the proposal as an acceptable procedure for certification of those airports to which it applies.

Recommendations for more specificity with respect to the content of the airport operations specifications were received. The amendment is responsive to those recommendations and that specificity is reflected in § 139.12a(c) by an itemized listing of operating factors to be covered in the operations specifications.

In addition, new § 139.12a specifies those sections of Part 139 (§§ 139.1, 139.3, 139.5, 139.7, 139.9, 139.15, 139.17) that are applicable to certificate holders and applicants under § 139.12a. Accordingly, except for those sections, no other requirements of Part 139 have application to applicants or certificate holders under § 139.12a.

Some question or objection was raised by the comments to the suggestion in the Notice that an airport operating certificate might be issued to an air carrier. It is anticipated that the incidence of such issuances would be rare. However, it appears that in some circumstances the air carrier may, in fact, be the "operator" and that the air carrier may be the appropriate certificate holder.

It should be pointed out, with respect to those objections raised in the comments that "provisional" and "limited" certification imposes undue economic burdens on airport operators, that the Airport Development Acceleration Act of 1973 (P.L. 91-258), which amends the Airport and Airway Development Act of 1970 (P.L. 91-258), provides that to the extent that a project cost of an approved project for airport development represents the cost of safety equipment required by rule or regulation for certification of an airport under section 612 of the Federal Aviation Act of 1958, the United States share in the allowable cost of such development, with respect to airport development project grant agreements entered into after May 10, 1971, may not exceed 82 percent. To the extent that Federal funds are available, it would appear that FAA participation in airport development would tend to minimize the economic impact

have the option of retaining that certificate until the termination date of December 15, 1974 and complying with the reporting requirements of § 139.12, or surrendering that provisional certificate and obtaining a "limited" certificate under § 139.12a.

The FAA believes that this amendment will effectively provide for certification of airports serving CAR-certificated air carriers conducting only unscheduled operations or operations with small aircraft and comply with the Congressional mandate stated in section 612 of the Federal Aviation Act.

Since this amendment imposes no additional burden on any person and provides an alternative method for certification of airports serving limited operations conducted by CAB-certificated air carriers, I find that good cause exists under 5 U.S.C. § 553(d)(3) for making this amendment effective on less than 30 days' notice.

This amendment is made under the authority of sections 313(a), 609, 610(a), and 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1429, 1430(a), and 1432), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, Part 139 of the Federal Aviation Regulations is amended, effective August 15, 1974.

Amendment 139-7

Miscellaneous Amendments

Adopted: August 23, 1974

Effective: October 3, 1974

(Published in 39 F.R. 31627, August 30, 1974)

The purpose of these amendments to Part 139 of the Federal Aviation Regulations is to make a number of miscellaneous changes or amendments to existing provisions of Part 139.

Interested persons have been afforded an opportunity to participate in the making of these amendments by a Notice of Proposed Rule Making (Notice 73-12) issued on April 17, 1973 (38 F.R. 9517), and due consideration has been given to all comments received in response to the Notice. To the extent that comments or recommendations received were beyond the scope of the Notice, they are not discussed or treated herein. However, they will be considered as part of FAA's continuing study of airport certification and operations, with a view to future rule making. Except for a number of minor editorial changes which have been made in the interest of clarity, and except as specifically discussed herein, these amendments and the reasons therefor are the same as those proposed in the Notice.

With respect to the proposed amendment of § 139.15 concerning the contents of the Airport Operating Certificate, a comment objected to the deletion of the requirement for listing the airport owner on the Airport Operating Certificate. The objection was based on the fact that FAA Form 5010 "Airport Master Record" lists the owner and for the sake of uniformity the name of the owner should also be listed on the operating certificate. The FAA agrees that § 139.15(a) should remain as written, and that the Airport Operating Certificate should continue to show both the name and address of the owner and operator.

Regarding the proposal to amend § 139.45(b) 1) to allow for design and construction differences which previously met FAA airport criteria in effect at the time of construction, a comment asserted that such an amendment would reduce the effectiveness of the rule. The comment viewed the proposal as a wholesale lowering of requirements, and argued that the issuance of exemptions in specific cases could more effectively deal with particular situations.

prior to implementation of current FAA criteria, but constructed in conformance with then current FAA criteria, a runway safety area of adequate dimension is provided for.

With respect to the proposed amendment of § 139.47(a)(4) regarding approach aid lighting, the comments received were favorable and the proposal is being adopted. The listing of specific types of approach aid lighting is being deleted since the FAA does not believe it necessary or practicable to include a complete listing. The statements regarding "properly aimed" and "proper guidance" are deleted as inappropriate to a listing of items, and because these requirements are considered to be included in the statement of requirements (operable condition) contained in paragraph (a) of § 139.47.

Regarding the proposed amendment of § 139.49 (airport fire fighting and rescue equipment service), the FAA has determined that in the second sentence of § 139.49(a), the words "computed on an annual basis" should be inserted between the words "day" and "served." This amendment is to provide clarification on how to determine average departures to identify an Index for an airport.

To permit Index selection or identification of fire fighting and rescue equipment requirements based on forecast aircraft activity included in the FAA National Airport System Plan, paragraph (a) and subparagraphs (a)(1) and (2) of § 139.49 are being amended to provide for determination of the applicable Index, if the applicant elects, based on departures "served or expected to be served" by the airport.

The applicable Index, described in § 139.49(a), is determined by the longest large aircraft operated by an air carrier user on an average of at least five scheduled departures per day. Where an Index has been established, based on scheduled large aircraft departures, additional unscheduled or small aircraft operations will not increase or affect Index selection.

In the second sentence of § 139.49(a), the word "scheduled" was inadvertently omitted in the Notice. Amendment of the paragraph to delete the word was not intended and § 139.49(a) is unchanged in this respect.

Subparagraph (b)(1) of § 139.49 is being amended, as proposed, by adding the words "for protein foam production" between the word "water" and "and" in the second sentence to make it clear that the required water is for protein foam production. Additionally, the word "compatible" is being inserted between the words "of" and "dry" to make it clear that the dry chemical required must be compatible with the protein foam to be used.

Subparagraphs (b)(2), (3), (4), and (5) of § 139.49 are being amended, as proposed, by inserting the word "protein" between the words "for" and "foam" to clearly identify the basic type of protein foam production required.

A new subparagraph (c)(3) is being added to § 139.49 to provide for the use of other extinguishing agents acceptable to the Administrator as substitutions for protein based foam that would provide equivalent fire fighting capability.

For clarification, the words "foam type" are being inserted between the words "each" and "fire" in § 139.49(d) to identify the fire fighting and rescue vehicles that must be capable of the discharge rate specified therein and the requirement has been revised to make it clear that the discharge is applicable to these vehicles only.

The FAA has determined that in the first sentence of § 139.49(d), the words "less than 1 3/4 minutes nor" should be deleted. Since the rule was promulgated, fire fighting equipment has been improved. The discharge rates, as provided by the manufacturers, are more efficient and the nozzles are more responsive to the pumping capacities. By deleting the 1 3/4-minute time restriction, a greater degree of safety will be provided for and airport operators will have more flexibility in meeting the requirements of the rule.

In § 139.49(f), the specification of the color of the flashing beacon is being deleted since certain State laws permit or require other beacon colors for fire fighting vehicles.

and the control tower or other central control point.

With respect to the proposed amendment to § 139.53(b) dealing with a segmented circle with traffic pattern Indicator, comments requested clarification of the requirement for a segmented circle in § 139.53(b) when a control tower is not in operation for all air carrier operations. A comment recommended that the section be amended to indicate that traffic pattern indicators would be required only when traffic patterns are nonstandard.

The FAA has concluded in the light of comments received that the wording of § 139.53(b) should be changed to make it clear that a segmented circle around at least one wind direction indicator would be required if the airport has no control tower or if the control tower is not operating during air carrier operations, and that landing strip indicators and traffic pattern indicators, in addition to the segmented circle, would be required only if the airport has a right hand traffic pattern.

Regarding the proposed addition of a new paragraph (d) to § 139.89 which deals with airport fire fighting and rescue equipment and service, the comments received were favorable and the proposal is being adopted, and the airport operator will be required to meet the requirements of the higher Index when traffic increases make that higher Index applicable.

These amendments are made under the authority of sections 313(a), 609, 610(a), and 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1429, 1430) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, Part 139 of the Federal Aviation Regulations is amended effective October 3, 1974.

Amendment 139-8

Extension of Effective Date of Certain Provisional Airport Operating Certificates

Adopted: December 6, 1974

Effective: December 15, 1974

(Published in 39 F.R. 43297, December 12, 1974)

The purpose of this amendment to Part 139 of the Federal Aviation Regulations (FARs) is to extend for a period of ninety days the effective date of each provisional airport operating certificate, issued under § 139.12 to an operator of a landing area that (1) is used for less than a daily average of one aircraft operation (landing or takeoff) during any three consecutive calendar months, and (2) is not used for any air carrier service conducted pursuant to a published schedule.

Part 139 of the Federal Aviation Regulations provides for the issuance of airport operating certificates for land airports serving CAB-certificated air carriers. As originally adopted, Part 139 was applicable only to land airports serving "scheduled" air carriers operating large aircraft (other than helicopters). Amendment 139-1 (38 F.R. 9795) published in the Federal Register on April 20, 1973, amended Part 139, effective May 21, 1973, to make it applicable to all airports serving air carriers certificated by the Civil Aeronautics Board, and to provide for the issuance of provisional airport operating certificates for airports serving only unscheduled operations or operations with small aircraft. Amendment 139-6 (39 F.R. 29342; August 15, 1974) amended Part 139 effective August 15, 1974, to provide for the issuance of limited airport operating certificates and operations specifications for airports serving air carriers conducting only unscheduled operations or operations with small aircraft. Amendment 139-5 (39 F.R. 11874; April 1, 1974) provided for the expiration of all provisional airport operating certificates on December 15, 1974. Under Amendment 139-6, holders of provisional airport operating certificates issued under § 139.12 had the option of retaining that certificate until the termination date of December 15,

used regularly by aircraft for receiving or discharging passengers or cargo." The FAA believes that the landing areas described above when used on infrequent or intermittent basis, fall outside the definition of "airport" contained in the Act, and that certification of such sites is both unnecessary and impracticable at this time.

Accordingly, the FAA is proposing (Notice of Proposed Rule Making No. 74-37, issued concurrently with this amendment) to amend Part 139 to include the definition of "airport" contained in the Federal Aviation Act of 1958, and to define the term "regularly" which is used in the definition of "airport" as meaning used, during the 12 calendar months preceding an aircraft operation (landing or takeoff), for either any air carrier service conducted pursuant to a published schedule, or an average of one or more aircraft operations (landing or takeoff) per day during any three consecutive calendar months.

In order to allow adequate time for receipt and consideration of comment in response to Notice 74-37, and to permit continued operations at that group of landing areas to which this amendment applies, § 139.12 is being amended to extend, until March 15, 1975, the effective date of this provisional airport operating certificates now held by operators of landing areas that are not used "regularly" as defined in Notice 74-37. Those provisions of § 139.12, which required the submission of a schedule for compliance and a compliance status report by October 15, 1974 and November 15, 1974, respectively, have been deleted as no longer applicable.

Since this amendment is an extension of the effective dates of new requirements and imposes no additional burden on any person, I find that notice and public procedures thereon are unnecessary and that good cause exists for making this amendment effective on less than 30 days' notice.

This amendment is made under the authority of sections 313(a), 609, 610(a), and 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1429, 1430(a), and 1432), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, Part 139 of the Federal Aviation Regulations is amended, effective December 15, 1974, by amending § 138.12.

Amendment 139-9

Definition of "Airport"

Adopted: March 6, 1975

Effective: March 15, 1975

(Published in 40 F.R. 11713, March 13, 1975)

The purpose of this amendment to Parts 1 and 139 of the Federal Aviation Regulations is to include in Part 139 the definition of the word "airport" which now appears in section 101(9) of the Federal Aviation Act of 1958 (49 U.S.C. 1391), and further, to define the term "regularly" which appears in that definition of "airport." In addition, since the definition of "airport" which will now be applicable to Part 139 differs somewhat from the definition set out in Part 1 (Definitions and Abbreviations) of the Federal Aviation Regulations and currently applicable to subchapters A through X of the Federal Aviation Regulations (Parts 1 through 189), an editorial amendment is made to § 1.1 of Part 1 to accommodate special definitions.

Interested persons have been afforded an opportunity to participate in the making of these amendments by a Notice of Proposed Rule Making issued as Notice No. 74-37, published in the Federal Register on December 12, 1974 (39 F.R. 43315), and due consideration has been given to all comments received in response to that Notice.

Part 139 of the Federal Aviation Regulations provides for the issuance of airport operating certificates for land airports serving CAB-certificated air carriers. As originally adopted, Part 139, was applicable

on December 15, 1974. Under Amendment 139-0, holders of provisional airport operating certificates issued under § 138.12 had the option of retaining that certificate until the termination date of December 15, 1974, and complying with the reporting requirements of § 138.12, or surrendering that provisional certificate and obtaining a "limited" airport operating certificate under § 138.12a.

It has become apparent to the FAA that a number of CAR-certificated air carriers operate, on an infrequent or intermittent basis, for the purpose of receiving or discharging passengers or cargo, into landing areas which are not held out to be or generally recognized by the public as "airports," but are included in the definition of "airport" in Part 1. Small aircraft operations into cleared areas for delivery of supplies to Forest Service fire towers, helicopter operations to fishing camps, farms or racetracks, and delivery of supplies, materials or personnel at remote construction sites, are examples of such operations.

Section 101(9) of the Federal Aviation Act of 1958 defines "airport" as "... a landing area used regularly by aircraft for receiving or discharging passengers or cargo." The FAA believes that the landing areas described above, when used on an infrequent or intermittent basis, fall outside the definition of "airport" contained in the Act, and that certification of such landing areas and sites is both unnecessary and impracticable, at this time.

Accordingly, the FAA proposed in Notice 74-37 for the purposes of Part 139, to apply the definition of "airport" now contained in the Act, and to define "regularly" as meaning used, during the 12 calendar months preceding an aircraft operation (landing or takeoff), for either any air carrier service conducted pursuant to a published schedule, or an average of one or more aircraft operations (landing or takeoff) per day during any three consecutive calendar months. Notice 74-37 also proposed that Part 1 of the Federal Aviation Regulations be amended to distinguish or reconcile the two definitions of "airport."

Safety of air carrier operations at those landing areas which would not be certificated is provided for in § 121.590 of Part 121 and § 127.218 of Part 127. Those sections, which are applicable to air carriers, prohibit operations, unless otherwise authorized by the Administrator, into an "airport" unless that airport is certificated under Part 139. Part 1 of the Federal Aviation Regulations defines "airport" as meaning "... an area of land or water that is used or intended to be used for the landing and takeoff of aircraft, and includes its buildings and facilities, if any." The definition of "airport" contained in Part 1 of the Federal Aviation Regulations is applicable to §§ 121.590 and 127.218. Operators to whom those sections are applicable are required to obtain the authorization of the Administrator for operations into those landing areas or sites which are outside the definition of "airport" as applicable to Part 139, but come within the definition of "airport" as applicable to §§ 121.590 and 127.218.

In order to allow adequate time for receipt and consideration of comment in response to Notice 74-37, and to permit continued operations at that group of landing areas which were provisionally certificated, § 139.12 was amended (Amendment No. 139-8; December 12, 1974, 39 F.R. 43297) to extend, until March 15, 1975, the effective date of those provisional airport operating certificates held by operators of landing areas that are not used "regularly" as defined in Notice 74-37. Those provisions of § 139.12, which required the submission of a schedule for compliance and a compliance status report by October 15, 1974, and November 15, 1974, respectively, were deleted as no longer applicable.

Comments received in response to Notice 74-37 generally supported the proposal. A number of those comments renewed objections to broadening the applicability of Part 139, which was accomplished by Amendment 139-1. The FAA believes that matter was adequately addressed in Amendment 139-1 and is not further treated here.

Several comments raised a question regarding the method that would be appropriate for determining the operations average or frequency of operations under § 139.1(b)(5)(ii). The FAA recognizes that in some cases that determination might be made difficult by reason of the fact that the airport or landing area is unattended, or that accurate or long-term records are unavailable. In order that provision be made for resolution of the question in those areas, § 139.1(b)(5)(ii) provides that the method used in determining the operations average be acceptable to the Administrator. It is anticipated, however, that

Amendment 139-10

Airport Fire Fighting and Rescue Equipment

Adopted: February 1, 1977

Effective: February 10, 1977

(Published in 42 FR 8364, February 10, 1977)

The purpose of these amendments to Part 139 of the Federal Aviation Regulations is to make certain editorial changes and to permit the Administrator to exempt the operators of certain air carrier airports from the fire fighting and rescue equipment requirements of that part if he finds that compliance with those requirements is, or would be, unreasonably costly, burdensome, or impractical.

These amendments are necessary to implement section 19 of the Airport and Airway Development Act Amendments of 1976 (AADA) (Public Law 94-353, 90 Stat. 871), which amended section 612 of the Federal Aviation Act of 1958 by adding a new paragraph (c). Under that paragraph, the Administrator may exempt operators of air carrier airports enplaning annually less than one-quarter of one percent of the total number of passengers enplaned at all air carrier airports from the fire fighting and rescue equipment requirements of section 612(b) of the Federal Aviation Act, if he finds that those requirements are, or would be, unreasonably costly, burdensome, or impractical.

In light of this legislative provision, §§ 139.19(a) and 139.49 are amended to permit those operators to file petitions for exemption from the fire fighting and rescue equipment requirements of § 139.49. Petitions filed should include a detailed explanation of how compliance with those requirements is, or would be, unreasonably costly, burdensome, or impractical. In this connection, the FAA will, in the near future, issue an advisory circular providing guidance for persons desiring to petition for an exemption under § 139.19, as herein amended.

In addition, § 139.19(a) currently indicates that an applicant for an airport operating certificate may petition for an exemption from the safety equipment requirements of § 139.111. However, § 139.111 does not in fact set forth such requirements. Moreover, paragraph (a) does not include a reference to § 139.107, which contains safety equipment requirements. Thus, to correct these inadvertent errors, the reference to § 139.111 is deleted and a reference to § 139.107 is included in § 139.19(a).

Finally, an applicant may petition the Administrator for an exemption from a safety equipment requirement contained in Part 139 on grounds that compliance would be contrary to the public interest. This provision is set forth in current § 139.19(a), which pertains to the filing of petitions for exemption from safety equipment requirements, and similar language is used in the sections throughout Part 139 which contain those requirements. Since this duplication is considered unnecessary, the similar provisions have been deleted from the sections containing safety equipment requirements.

Since these amendments are necessary to implement a statutory requirement, are editorial in nature, and impose no additional burden on any person, I find that notice and public procedure thereon are unnecessary and that good cause exists for making them effective on less than 30 days notice.

These amendments are made under the authority of sections 313(a) and 612(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a) and 1432(c)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, part 139 of the Federal Aviation Regulations is amended, effective February 10, 1977.

The purpose of this amendment to § 139.55 of the Federal Aviation Regulations is to require an applicant for (and holder of) an airport operating certificate to plan for medical and other assistance that may be needed in the event of an aircraft accident on its airport.

Interested persons have been afforded an opportunity to participate in the making of this amendment by a Notice of Proposed Rule Making (Notice No. 76-6) issued on March 25, 1976, and published in the Federal Register on April 1, 1976 (41 F.R. 13953). Due consideration has been given to all comments received in response to the Notice.

Comments on the Notice were received from 85 private organizations and individuals and eight Federal agencies. Some of the commentators expressed general agreement with the objectives of the proposal. On the other hand, many expressed opposition or suggested revisions.

The FAA has reviewed, at random, a number of airport emergency plans and has found that many do not provide for medical assistance, transportation, and crowd control. Since it is believed that a detailed plan for providing medical and other assistance is essential for safety, this amendment adopts most of the provisions set forth in Notice No. 76-6. However, in light of comments, received, several changes of a clarifying, relaxatory, or substantive nature have been made.

Under proposed § 139.55(b)(2), each applicant for an airport operating certificate would have had to plan for transportation and medical services for the maximum number of persons that could be carried on board the largest air carrier aircraft served or expected to be served by its airport. On further consideration, the FAA concludes that some applicants or operators would be unable to comply with this standard since the communities they serve cannot provide the medical assistance and transportation that would be necessary to achieve compliance.

Since it is intended to achieve compliance through community participation rather than through the purchase of additional vehicles and services, this provision has been revised. Under § 139.55(b)(2) of this amendment, the applicant must show, if practicable, that its plan provides for transportation and medical assistance for the number of persons specified in proposed § 139.55(b)(2). Under this standard, it must make a reasonable effort to obtain assistance for that number of persons from appropriate facilities, agencies, and personnel located on its airport and within the communities served by its airport. If this effort fails, the applicant has to provide, in its plan, for transportation and medical assistance to the extent that it is available on the airport and in those communities. It does not have to purchase additional vehicles or services or go beyond the communities in search of assistance.

With regard to that portion of the proposal dealing with agreements between an airport operator and appropriate facilities, agencies, and personnel, the FAA wishes to point out that the term "agreement" was defined in the Notice as an "understanding", not a formal, written contract. The FAA recognizes that certain facilities, agencies, and personnel may not desire to obligate themselves or may be unable to obligate themselves, to assist in the event of an emergency. However, to eliminate any misunderstanding, the word "agreement" is not used in the amendment.

Several commentators observed that Notice 76-6, rather than proposing a requirement that applicants exercise emergency plans periodically to determine their effectiveness, merely recommends such action. These commentators feel that periodic exercise of the plan is important that should be required. While this practice is desirable, to require periodic exercise of the plans would impose an undue economic burden on certain airport operators, and for that reason such a requirement is not considered appropriate at this time.

Other commentators objected to the preparation of detailed plans citing the effort and expense involved or the existence of community plans that incorporate their airports. In this connection, the FAA wishes to point out that the practice of incorporating appropriate portions of community emergency plans into

In addition, several editorial changes have been made for purposes of clarity. The most significant of these involves the elimination of the phrase "in the vicinity of the airport", used in proposed § 139.55(b)(2)(i)-(iv), and use in lieu thereof of the phrase "in the communities served by the airport."

Finally, it should be noted that a person operating an airport, for which an airport operating certificate has been issued, must operate, maintain, and provide facilities, equipment, systems, and procedures at least equal in condition, quality, and quantity to the standards currently required for the issue of the airport operating certificate for that airport. This provision, set forth in §§ 139.81(a) and 139.121(a), requires the current holder of an airport operating certificate to comply with new standards, such as those set forth in this amendment.

This amendment is made under the authority of sections 313, 610 and 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1354, 1430 and 1432) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, § 139.55 of the Federal Aviation Regulations is amended, effective April 18, 1977, by revising paragraphs (b)(2), (b)(3), and (c), and by adding a new paragraph (e).

The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Amendment 139-12

Delegations of Authority

Adopted: October 31, 1978

Effective: November 9, 1978

(Published in 43 FR 52203, November 9, 1978)

SUMMARY: These amendments delegate certain authority of the Administrator of the FAA to officials within the FAA to issue, amend, or repeal: (1) appendices to parts of the Federal Aviation Regulations; (2) technical standard orders; (3) minimum en route IFR altitudes and associated flight data; and (4) standard instrument approach procedures. They also delegate certain authority of the Administrator to: (1) reconsider refusals of applications for amendments to various operating certificates, operations specifications, and airport operations manuals; and (2) reconsider amendments to operations specifications, and airport operations manuals. In addition, these amendments establish procedures for the reconsideration of denials or grants of exemptions. These amendments also delegate authority to the Regional Directors to grant or deny exemptions from the regulations concerning the certification and operations of land airports serving CAB-certificated air carriers. Finally, the amendments delegate the Chief Counsel's authority in connection with the processing of certain rules. This action is taken to provide more timely governmental response and action. These delegations will reduce review levels within the agency with corresponding savings in time, money, and resources.

ADDRESS: Send comments on the procedures in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Docket No. 18434, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Edward P. Faberman, Office of the Chief Counsel, Regulations and Enforcement Division, Federal Aviation Administration, 800 Independence Avenue, S.W., Washington, D.C. 20591; Telephone: (202) 42073.

SUPPLEMENTARY INFORMATION:

By the addition of a new paragraph (c) to § 11.41, certain authority of the Chief Counsel in processing exemptions under Subpart C of Part 11 (14 CFR Part 11) is delegated to the Assistant Chief Counsel for Regulations and Enforcement. Further, under this paragraph the Chief Counsel may delegate responsibilities in processing petitions for rule making, issuing notices of proposed rule making, and adopting final rules. Section 11.61 of Subpart D (rules and procedures for airspace assignment and use) and § 11.81 of Subpart E (processing of Airworthiness Directives) are amended to delegate to the Assistant Chief Counsel for Regulations and Enforcement the authority of the Chief Counsel in processing rules under these subparts. It should be noted that under the amendment to Subpart C, in contrast to existing Subparts D and E, the Regional Counsel does not act as the Chief Counsel except in processing petitions for exemptions from the requirements of Part 139 (14 CFR Part 139). Further, the last sentence of paragraph (a) of § 11.41 is placed in new paragraph (c) of § 11.41 since new paragraph (c) contains the definitions for the subpart. Finally, paragraph (c) of § 11.53 is deleted since its substance is incorporated in the new paragraph (c) of § 11.41 which relates to the scope of the entire subpart.

B. Appendices to Parts, Technical Standard Orders, Minimum En Route IFR Altitudes and Associated Flight Data, and Standard Instrument Approach Procedures

By amending § 11.49 the head of the Office or Service concerned is delegated the authority to issue, amend, or repeal appendices to parts of the Federal Aviation Regulations. These appendices contain technical details relating to specific sections within the part and they do not involve basic policy considerations. Therefore, the general involvement of the Administrator in regulatory actions related to appendices is not warranted.

Section 11.49 is also amended to delegate the authority to issue, amend, and repeal: (1) technical standard orders; (2) minimum en route IFR altitudes and associated flight data; and (3) standard instrument approach procedures. These delegations were authorized by a document published in 25 FR 6489 (July 9, 1960) and paragraph 802 of Order FSP 1100.1, as amended March 9, 1973. This amendment merely serves to publish these existing delegations in the Federal Aviation Regulations.

C. Reconsideration of Denials or Grants of Exemptions

A new section is added to Part 11 establishing procedures for processing petitions for reconsideration of denials and grants of exemptions. Previously, there has been no prescribed procedure, but normally, reconsideration has been by the Administrator. New § 11.55(a) and (b) codifies this procedure in the Federal Aviation Regulations.

In contrast to the above procedure, new § 11.55(c) provides that, in the case of a petition for reconsideration of a denial of an exemption from the requirements of Part 67 of the Federal Aviation Regulations, (14 CFR Part 67) the petition is to be filed with, and the reconsideration is to be by, the Federal Air Surgeon. The difference in the procedure for reconsideration of denials of Part 67 exemptions is due to the large quantity of Part 67 exemptions requested, approximately 100 a month, and the specialized nature of the medical decisionmaking in these cases which requires specialized medical expertise. A decision on a petition for reconsideration still would be made by the Administrator if the Federal Air Surgeon referred the decision on the initial petition for exemption to the Administrator in accordance with § 11.53.

A petition for reconsideration would have to be based on either a material mistake in fact or law or the presence of an additional fact not presented to the FAA in the initial petition.

D. Airworthiness Directives and Airspace Assignment and Use

Except for the amendments to §§ 11.61 and 11.81, the revisions of Part 11 made by these amendments do not relate to the issuance of Airworthiness Directives and rules concerning airspace assignment and

F. Exemptions from Part 139

Section 139.19 is revised to delegate to the appropriate Regional Director the authority to grant or deny exemptions from the requirements of Part 139 with the exception of those petitions filed on behalf of military airports. The Assistant Administrator for Airports Programs is authorized to grant or deny the petitions for exemptions from the requirements of Part 139 filed on behalf of military airports. These delegations are authorized because of the local nature of most Part 139 exemptions and the necessity for coordinating a national policy for those exemptions filed on behalf of military airports. Finally, the language in § 11.41 has been changed to more accurately reflect the fact that exemptions are requested "from the requirements of" Part 139 and not "filed under" that part.

Effective Date and Request for Comments

Since these amendments are procedural in nature and implement existing statutory authority, notice and opportunity for public comment is not required. In addition, since these amendments are procedural and do not impose an additional burden, good cause exists for making them effective less than 30 days after publication. However, the FAA contemplates a review of the procedures established by these amendments after they have been in operation for at least twelve months. Interested persons are invited to submit such comments as they may desire with respect to these amendments. Communications should identify the regulatory docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, S.W., Washington, D.C. 20591. All comments received on or before March 9, 1979, will be considered during the review, and will be available both before and after that date in the Rules Docket for examination by interested persons.

Adoption of the Amendments

Accordingly, Parts 11, 121, 127, 133, and 139 of the Federal Aviation Regulations (14 CFR Parts 11, 121, 127, 133, 137, and 139) are amended, effective November 9, 1978.

(Secs. 313 and 601 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354 and 1421); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

The Federal Aviation Administration has determined that this document is not significant in accordance with the criteria required by Executive Order 12044, and set forth in the proposed "Department of Transportation Regulatory Policies and Procedures" published in the *FEDERAL REGISTER* June 1, 1978 (43 FR 23925). In addition, these amendments are procedural in nature and the Federal Aviation Administration has determined that the expected impact of these amendments is so minimal that they do not require an evaluation.

Amendment 139-13

Applicability of Part 139

Adopted: March 14, 1984

Effective: May 29, 1984

(Published in 49 FR 18086, April 27, 1984)

SUMMARY: This amendment changes the rule specifying which airports must be certificated. This is necessary to implement a statutory amendment passed by Congress, to respond to concerns that certain airports serving "commuter" aircraft were not subject to airport certification, and to address some confusion over airport certification requirements. This amendment sets new standards for the applicability of the airport certification rules.

Since 1970, Section 612 of the Federal Aviation Act of 1958 (FA Act) (49 U.S.C. § 1432) has empowered the Administrator of the FAA to issue airport operating certificates to airports serving certain air carriers and to establish minimum safety standards for the operation of those airports. Prior to the enactment of the Airport and Airway Improvement Act of 1982, this authority was limited to air carriers certificated by the Civil Aeronautics Board (CAB). The FAA implemented § 612 in 1972 by adopting Part 139 of the Federal Aviation Regulations (FAR). Under current Part 139 an airport serving an air carrier conducting operations at that airport under the authority of a certificate of public convenience and necessity (CPCN) issued by the CAB is required to hold an airport operating certificate if any of those air carrier operations at the airport are conducted in large aircraft (more than 12,500 pounds maximum certificated takeoff weight). If all of the CPCN operations at the airport are unscheduled large aircraft operations or scheduled small aircraft operations, the airport operator is required to hold a limited airport operating certificate.

As was explained in Notice 80-10A, formerly the routes on which air carriers holding CPCN's could operate were strictly controlled by the CAB. With the implementation of the Airline Deregulation Act of 1978 (Pub. L. 95-504, 92 Stat. 1705), and the relaxation of the CAB policies and regulations, route structures become more flexible, numerous scheduled air carriers not holding CPCN's ("commuters") began conducting operations similar to those that were previously conducted by only CPCN holders, and CPCN holders began serving airports not included in former routes. The FAA became concerned that currently Part 139 does not require many airports used by these "commuter" air carriers to be certificated, although the traveling public is likely to assume that the same level of safety and service will be provided at these airports.

Under current CAB regulations, CPCN certificates only apply to operations conducted by air carriers in aircraft having a passenger seating capacity of more than 60 passengers or a payload of more than 18,000 pounds. Since current Part 139 is applicable to an airport only if it serves an air carrier conducting operations into the airport under a CPCN, airports serving only air carriers operating aircraft with less than 61 passenger seats are not required by Part 139 to be certificated. Nevertheless, § 121.590 of the FAR provides that air carrier operations conducted under the rules of Part 121 may operate only into Part 139 certificated airports. Therefore, air carriers using aircraft with a seating capacity of more than 30, but less than 61, passengers are required to operate into certificated airports under the rules of Part 121, but the airports into which they operate are not required by Part 139 to hold a certificate. Thus, airports serving air carriers operating under the rules of Part 121 using only aircraft with a seating capacity of more than 30 passengers and less than 61 passengers remain under current Part 139 only if they voluntarily elect to do so in order to keep this service. This has resulted in much confusion on the part of airport operators and air carriers as to which air carriers can operate into which airports.

On September 3, 1982, the Airport and Airway Improvement Act of 1982 (Pub. L. 97-248) was enacted, in part amending § 610 and § 612 of the FA Act. Section 612(a), as amended by Pub. L. 97-248, empowers the Administrator to issue airport operating certificates, and to establish minimum safety standards for the operation of, airports that serve any scheduled or unscheduled passenger operation of air carrier aircraft designed for more than 30 passenger seats. Section 612(b), as amended, provides that any person desiring to operate an airport which is described in § 612(a) and is required by the Administrator, by rule, to be certificated, may file an application for certification with the Administrator. Section 610(a)(8) was amended to make it unlawful for any person to operate an airport without an airport operating certificate required by the Administrator pursuant to § 612, or in violation of the terms of that certificate.

To implement the authority provided in Pub. L. 97-248, an to simplify and clarify the applicability of Part 139, Notice 80-10A proposed to revise Part 139 and § 121.590.

Notice 80-10A proposed amending Part 139 to apply to airports serving any scheduled or unscheduled air carrier operations of aircraft having a seating capacity of more than 30 passengers. It proposed to delete references to "CAB-certificated air carriers" and to small aircraft in Part 139. In order to maintain

Twenty comments to Notice No. 80-10A were received. The comments represent the views of the industry, state and local governments, and aviation associations.

Four of the commenters concur, and recommend adoption of the proposed rule. One commenter requests that implementation begin as soon as possible with waivers being extended to those noncompliant airports making efforts to comply.

Eleven commenters from the resort areas of New England object to requiring certification of air carrier airports that serve aircraft with between 30 and 61 seats. They state that an undue financial hardship would result for a number of airports that have seasonal service by air carriers with more than 30 seats. These commenters recommend using the CAB breakpoint of 60 passenger seats as the basis for airport certification. One of these commenters suggested that airports serving a small number of Part 121 aircraft per day be given exemptions from the rule. An association of airline pilots does not agree with the more than 30-seat limit proposed in the notice because it does not consider such variables as number of movements, aircraft size and the increasing numbers of the below 30-seat carrier fleet. This association does not state what limit would in its opinion be more appropriate.

Four commenters from Alaska concur with the proposal to certificate air carrier airports served by aircraft with seating capacities of more than 30 passengers. However, these commenters object to the continued requirement in § 121.590 that all air carriers land only at certificated airports, including cargo operations. Some are under the impression that Notice 80-10A proposed a change to § 121.590 to impose this requirement. They state that requiring cargo operations to use only certificated airports would unduly restrict the number of airports available for their use, and would be a harsh burden to those small, remote communities, dependent on air cargo service, which would have to obtain certification for their airports.

The FAA is not adopting the suggestions that airport certification be keyed to the daily number of aircraft movements or to any standards other than the passenger seating capacity. It is preferable, for the efficient operation of the airport certification program and to avoid undue confusion, to have a clear standard based on easily identifiable criteria. There are few airports which have seasonal activity to the extent reported by the commenters. The FAA does not consider that there is a sufficient number to warrant general rulemaking to attend to their special circumstances. Part 139 provides for exemptions to certain sections of the regulation under appropriate circumstances. If the air carrier operations are seasonal, requests for relief from at least a portion of the requirements can be accommodated if they are justifiable. The New England airports referred to in the comments hold limited airport operating certificates, and thus have had some determination as to the necessity for fire fighting and rescue equipment. This determination will be carefully considered if they apply for exemptions from the full requirements of Part 139. The FAA has determined, therefore, that the rule as proposed will not be unduly burdensome on those airports whose service to air carrier aircraft with more than 30 passenger seats is seasonal.

The FAA disagrees with those commenters who request that cargo operations under Part 121 be permitted to use uncertificated airports under § 121.590. The FAA is required, under § 601(b) of the FA Act, to "give full consideration to the duty resting upon air carriers to perform their services with the highest possible degree of safety in the public interest. . . Part 121 air carrier operations may be passenger operations, part cargo and part passenger, or all cargo. The FAA continues to consider that it is necessary in the interest of maintaining the required level of safety not to permit any Part 121 operator to have the unrestricted authority to use any uncertificated airport. This is not a newly adopted requirement, contrary to some of the commenters' impressions.

The FAA recognizes, however, that there are circumstances in which it is impractical or impossible to require that a Part 121 operator conduct all of its operations into Part 139 certificated airports. This may be true, for instance, in remote areas or in special situations or limited operations, such as an "airport" that consists of a frozen lake or a beach, or a onetime fire fighting operation at a remote forest site.

to provide this service; nor will it require those Part 121 operators to cease operation. The FAA has determined, therefore, that this rule will not unduly burden those communities now receiving the service or those air carriers now providing the services.

The FAA reviewed the comments to Notice 80-10. Since Notice 80-10A withdrew Notice 80-10, and proposed completely different rules, the comments to Notice 80-10 are not applicable here. Many of the comments to Notice 8-10 concerned the requirements for crash, fire, and rescue equipment in Part 139. These comments have been considered in connection with a review of all of Part 139 now being undertaken by the FAA.

Description of the Amendment

After considering all of the comments, the FAA has decided to adopt the amendments as proposed in Notice 810A.

Part 139 is amended to apply to airports serving any scheduled or unscheduled air carrier operations of aircraft having a seating capacity of more than 30 passengers. The references to "CAB-certificated air carriers" in Part 139 are deleted. The more-than-30-seat limit is consistent with limited authority granted by Congress and with the general division now existing in the FAR between air carriers operating under the rules of Part 121 and those operating under Part 135.

While Pub. L. 97-248 speaks to "aircraft *designed for* more than 30 passenger seats" (emphasis added), the amendment will limit Part 139 applicability to airports serving air carrier aircraft having a *seating capacity of* more than 30 passengers. This will exclude from the certification requirement airports serving aircraft designed to carry more than 30 passenger seats, but with 30 or fewer passenger seats actually installed in the aircraft. As noted above, § 612 of the FA Act, as amended, provides the Administrator with discretion to determine the appropriate criteria for certification of airports. The FAA believes that the requirement that airports must obtain and maintain certificates should be keyed to the number of passenger seats installed, rather than the number of passenger seats for which the aircraft is designed. This will place the burden of certification on airports only when there is the potential for the safety of more than 30 passengers to be protected, and place no direct burden on the airports when only cargo air carrier operations are served.

References to small aircraft in Part 139 are being deleted, since small aircraft (12,500 pounds or less maximum certificated takeoff weight, as defined in Part 1) have about 20 or fewer seats. Section 121.590 is also being amended to delete references to small aircraft.

While Part 139 is being keyed only to passenger seating capacity, § 121.590 will continue to require aircraft with a payload capacity of over 7,500 pounds, that is, any cargo operations under Part 121, to operate only into certificated airports. Thus, while the airport operator will not have to refer to the payload capacity of the aircraft to determine whether airport certification is necessary to serve a particular cargo flight, air carriers will continue to be required to conduct operations under Part 121 only into certificated airports. Deviations from § 121.590 will be authorized in appropriate cases. Under this scheme, air carriers operating under Part 121 will continue to be held to the highest standard of safety, in that they will in general only use certificated airports. However, the FAA will have the flexibility to determine that, with any special conditions found necessary for safety, the air carrier may operate into a particular uncertificated airport. Such as deviation may be authorized by the field office/regional office responsible for the safety certification and surveillance of the air carrier. This may be accomplished through an amendment to the air carrier's operating specifications.

It is anticipated that under the rule there will be very few Part 121 operations into uncertificated airports, and few air carriers who will find it necessary to request a deviation from § 121.590. By placing no direct burden on the operators of the airports involved, this amendment provides the least amount of regulation consistent with safety and the efficient administration of the program. As experience is gained with the amendments to Part 139, the FAA will consider whether § 121.590 should be amended to require air carriers to use certificated airports based only on passenger seating capacity.

121 air carriers desiring to continue service to those airports. The Notice also requested information on the economic impact to Part 121 air carriers which would discontinue passenger services under an authorized deviation from § 121.590 to airports not currently certificated under Part 139. Comments on the economic aspects of the proposal were submitted by industry, state, and local governments.

The FAA has determined that the benefits associated with the final rule amendments to § 121.590 and Part 139 exceeds its costs. The economic evaluation has concluded that the final rule changes will not have a cost impact on Part 139 airports. One air carrier, however, conducting passenger operations under a deviation from § 121.590 will have to cancel service to three uncertificated airports. The FAA anticipates that the carrier will elect to divert service to certificated airports rather than cancel all service and will incur unquantified minor costs to do so. Three airports electing not to continue to comply with Part 139 will realize future annualized savings of \$264,000 as a result of not having to maintain and replace Crash/Fire/Rescue equipment, conduct periodic facilities inspections, and comply with reporting and administrative requirements in accordance with the requirements of Part 139.

The Amendment

Accordingly, the Federal Aviation Administration amends Parts 121 and 139 of the Federal Aviation Regulations (14 CFR Parts 121 and 139), effective May 29, 1984.

[Secs. 313(a) and 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a) and 1432); 49 U.S.C. § 106(g) (Revised, Pub. L. 97-449, January 12, 1983)].

NOTE: Pursuant to the amendment three airports now certificated under Part 139 are expected to drop their certificates, resulting in economic benefits to those airports. The amendment is expected to result in minor costs to an air carrier who may direct service from uncertificated airports to certificated airports. For these reasons, the FAA has determined that this document involves a regulation that is not a major regulation under Executive Order 12291 and is not significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The FAA has determined that a relatively small number of small entities will receive an economic benefit or cost under the rule, and that these benefits or costs will be minor. It is therefore certified that under the criteria of the Regulatory Flexibility Act the rule will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and placed in the regulatory docket. A copy may be obtained by contracting the person listed under "FOR FURTHER INFORMATION CONTACT."

Amendment 139-14

Airport Certification; Revision and Reorganization

Adopted: November 9, 1987

Effective: January 1, 1988

(Published in 52 FR 44278, November 18, 1987)

SUMMARY: This amendment revises and reorganizes the part of the Federal Aviation Regulations dealing with the certification and operation of airports serving certain air carriers. It is needed to clarify the language in the part, to make it more understandable, to define certain requirements more specifically, to impose additional safety requirements, and to modify other requirements considered unnecessary and unduly costly.

FOR FURTHER INFORMATION CONTACT: Mr. Jose Roman, Jr., Safety and Compliance Division (AAS-300), Office of Airport Standards, 800 Independence Avenue, SW., Washington, D.C. 20591, Telephone (202) 267-8724.

Regulations (FAR), adopted on June 12, 1972, effective July 21, 1972 (37 FR 12278, June 21, 1972), as amended, prescribes rules governing the certification and operation of airports served by air carriers with aircraft having a seating capacity of more than 30 passengers. As was explained in Notice No. 85-22, with the experience gained and advancements made since the adoption of Part 139, with the recommendations made by the National Transportation Safety Board (NTSB), and with the comments offered by various segments of the public, it became apparent that substantial revisions of Part 139 were needed. It was recognized that the organization of the part was in many places cumbersome and confusing, and certain sections required clarification to better define the requirements and to make them more understandable. In addition, it was clear that certain requirements needed to be added or strengthened to enhance safety. Others needed modification to improve the benefit to cost ratio without affecting safety.

Notice No. 85-22 was issued to address these concerns. Comments were received covering all parts of the rule and have been considered in developing this amendment.

DISCUSSION OF THE COMMENTS AND THE AMENDMENT

A total of 179 commentators responded to Notice No. 85-22. The comments represented the views of airport operators, pilots, airlines, consumer groups, Federal agencies, state and local governments, and Congress.

A significant number of the comments suggested word changes, clarification, and organization. For the most part, these comments were accepted. The changes resulted in a better organized and more understandable regulation. Where a section or change in wording is not discussed in this preamble, the amendment is adopted for the same reasons as were stated in the notice.

Subpart A—General

Section 139.1 Applicability.

As with former Part 139, the part is not applicable to airports at which only air carrier training, ferry, or aircraft check or test operations are conducted. Section 139.1 has been amended to make clear that it does not apply to airports at which air carrier operations are conducted only by reason of the airport being designated as an alternate airport.

Section 139.3 Definitions.

Many commentators expressed concern with the proposed definition of a "movement area" and suggested instead the retention of the term "air operations area." The concern dealt primarily with including the loading ramps and aircraft parking areas within the definition of "movement area." Under proposed § 139.325 (adopted as § 139.329), this would have required two-way radio communication between service vehicles on the loading ramps and parking areas and the airport traffic control tower, or other controlling means. This was not the intent of the proposed "movement area" definition and hence the final rule has been changed to exclude the loading ramps and parking areas from the definition. Where a section is meant to apply to loading ramps and parking areas, it specifically so states.

Additional definitions have been added since the NPRM was issued to facilitate using Part 139. These definitions are intended to clarify terminology, not change the requirements.

A new definition, "air carrier operation", includes the period of time from 15 minutes prior to, until 15 minutes after, the takeoff or landing, to ensure that aircraft rescue and firefighting (ARFF) equipment are in place to provide the level of protection required by this part.

Section 139.5 Airport certification standards and procedures.

A few commenters opposed the reference to the Advisory Circulars as acceptable means of compliance with the rule. It was felt that the reference would impose on the airport operators additional requirements which are contained in the Advisory Circulars but not in the rule. However, the majority of the comments

should be at the option of the airport operator and not at the option of the Administrator. Many expressed concern that the costs to upgrade the certificate would prove burdensome in the event that this upgrading was needed at some later date. The FAA is not aware of any reason why it is more expensive to surrender a full certificate and then later regain the certificate than it is to continue the certificate uninterrupted. Further, the airport may maintain Part 139 standards without a full certificate if it chooses. In deciding whether to revoke a full certificate and issue a limited certificate, the airport's reasonable expectation of future air carrier service will be considered.

The FAA has determined that it is unnecessary to state in Part 139 the authority and procedures under which the FAA suspends or revokes an airport operating certificate or a limited airport operating certificate. It is clear from section 609 of the Federal Aviation Act of 1958 (the Act) that the Administrator may suspend or revoke such a certificate if he determines that safety in air commerce or air transportation and the public interest requires it. As indicated in the proposed section, such a determination may be based on a failure to comply with any requirement of the Act, Part 139, the provisions or limitations of the certificate, or the airport's approved certification manual or specifications. Included in these grounds for suspension or revocation is the failure to continue to meet the eligibility requirements for a certificate. Also, it should be noted that under section 609 a certificate could be suspended or revoked for violation of other regulations, such as a failure of the airport to comply with the aviation security requirements of Part 107. The applicable procedures for any certificate action are clearly set forth in Part 13.

Subpart C—Airport certification manual and airport certification specifications

Section 139.201 Airport operating certificate: Airport certification manual.

Proposed § 139.201 stated: "only those items required by the Administrator for certification under this part are deemed approved by the Administrator." A number of commenters agreed with this proposal. However, after further consideration, it appears that the provision could be misinterpreted by a certificate holder to allow it to disregard portions of the manual which it felt were not strictly necessary under Part 139. This was not intended. The manual is intended to clearly specify the certificate holder's responsibilities, and thus minimize uncertainties in the program. The rule, as adopted, requires that a certificate holder must comply with its manual, even if it believes the manual has requirements beyond the minimum necessary for Part 139 certification. For instance, if a certificate holder's manual requires it to conduct an inspection of the airport specified in § 139.327 7 days a week, but it has air carrier operations only 5 days a week, the certificate holder must comply with its manual. While the certificate holder may have grounds to amend its manual, it is not free to disregard it. On the other hand, subjects not addressed in Part 139 should not be included in the manual and would not be enforced by the FAA. The rule as adopted provides: "only those items addressing subjects required for certification under this part shall be included in the airport certification manual."

A few commenters suggested that the manual required by Part 139 should be termed "Airport Certification Manual," to emphasize that the manual covers only airport certification requirements, not all aspects of airport operations. The FAA has decided to adopt the term "Airport Certification Manual." It was also suggested that a lead time or grace period should be provided for revising the manual to comply with the rule revision. Some expressed concern that a total rewrite of the existing manuals would be required to reflect the reorganization of Part 139. It is not FAA's intent that a new manual would have to be developed for every certificated airport. However, existing manuals would require modification and some restructuring to comply with the new requirements. The FAA is allowing 1 year from the effective date of this amendment to bring existing manuals into compliance with the new requirements. If there are extenuating circumstances or compelling reasons why additional time is necessary, the Administrator may approve a time extension.

Section 139.205 Contents of airport certification manual.

Some commenters expressed concern with the requirement to include, in the airport certification manual, a description of each access road designated for use by firefighting and rescue vehicles. Other comments suggested that the access routes to be included in the manual be limited to those in the

this proposal. However, the FAA is equally concerned that the provision could be misinterpreted by a certificate holder to allow it to disregard portions of the specifications which it felt were not strictly necessary under Part 139. Accordingly, § 139.209, as adopted, specifies that the certificate holder must comply with its specifications, even if it believes the specifications have requirements beyond the minimum necessary for Part 139 certification. As with the airport certification manual, subjects not addressed in Part 139 should not be included in the specifications and would not be enforced by the FAA. This section also provides: "only those items addressing subjects required for certification under this part shall be included in the airport certification specifications."

In response to comments, a similar terminology has been used to require that the specifications required by Part 139 be termed "Airport Certification Specifications," to emphasize that the specifications cover only airport certification requirements, and not all aspects of airport operations. A lead time or grace period has also been provided for revising the specifications to comply with the rule revision. The FAA is allowing 1 year from the effective date of this amendment to bring existing specifications into compliance with the new requirements. As in the case of airport certification manuals, if there are extenuating circumstances or compelling reasons why additional time is necessary, the Administrator may approve a time extension.

Subpart D—Operations

Section 19.305 Paved areas.

A number of commenters indicated that a better definition for a pavement hole was needed. The proposed maximum surface area of 12 square inches would be reasonable if maximum and minimum dimensions were also specified, they stated. As proposed, a very thin, long crack would fall within the stated definition of a hole. This was not the intent of the proposed rule. Consequently, the rule has been changed to define a hole specifically with maximum and minimum dimensions. A crack would be prohibited if it could impair the directional control of the aircraft. A few commenters from Alaska recommended the addition of a section dealing with unpaved areas. Since there are some certificated airports in the state with gravel runways, this recommendation was accepted. One commenter did not agree with the 3-inch lip criteria for pavement edges. Instead, it was recommended that a 1-inch criteria be used. The FAA has determined that a 1-inch criteria would be unduly restrictive. The 3-inch criteria has withstood the test of time, proved to be reasonable, and to have provided a satisfactory margin of safety.

Section 139.309 Safety areas.

Some commenters expressed concern with the requirement for a safety area and suggested allowing exemptions by the Administrator. The NTSB recommended that all runways utilized by air carrier aircraft have safety areas or safety areas constructed as close to the standards as possible. A few commentators recommended that the FAA define the dimensions for safety areas to eliminate the confusion which has existed in the past. Two pilot associations suggested establishing a time frame for those airports whose safety areas are not in accordance with standards to bring all safety areas into conformity with current standards. While safety areas are a highly desirable safety feature, the FAA recognizes that requiring full-size safety areas or requiring upgrading of existing safety areas when FAA criteria are upgraded is not practicable either physically or economically. Although the FAA will continue to require full-size safety areas to the extent practicable, it has determined that certificate holders should not be required to upgrade safety areas each time the FAA changes its criteria. This section also clarifies and codifies certain existing safety area criteria.

The rule, as adopted, requires that the certificate holder maintain the dimensions of safety areas as they existed on the day before the effective date of this amendment. For runways and taxiways constructed, reconstructed, or significantly expanded on or after the effective date, to the extent practicable, the safety area must meet criteria acceptable to the Administrator at the time of construction, reconstruction, or expansion.

is required. The NTSB and a pilots' association support the requirements for signs and markings.

The NTSB and others recommended requiring runway hold marking and signs for all runways, not just those runways with an ILS and runway critical areas. After further consideration, the FAA agrees with these recommendations. These markings and signs should help to reduce runway incursions.

Section 139.313 Snow and ice control.

A significant number of commenters expressed concern with the proposed requirement that there be "no ice on movement areas." The commenters felt, however, that a certificate holder should, in accordance with the airport snow removal plan, mitigate as much as possible the effects of snow and ice on air carrier operations. A pilots' association supported the complete removal of all ice, snow, and slush from the movement areas. Criticism of the proposal has merit. In some areas of the country, for instance, snow is compacted in a manner which provides an acceptable surface for aircraft operations. The final rule provides procedures for prompt removal and control, as completely as practical, of snow, ice, and slush.

A number of commentators suggested that a better definition of "it is likely that snow conditions will exist" is required. This has been modified to "where snow and icing conditions regularly occur."

The NTSB supports more definitive standards and the need for a written snow removal plan. The FAA accepts the recommendations and they are reflected in the rule as adopted.

Section 139.315 Aircraft rescue and firefighting: Index determination.

With respect to the airport firefighting index, a few commentators expressed concern that the level of aircraft rescue and firefighting (ARFF) capability required for the busiest 3 consecutive months may serve to unnecessarily penalize airports serving largely seasonal tourist traffic. The comments suggested that instead, the index should be based on the average daily departures over the entire year. From other commenters there was considerable support for the busiest 3 months criteria. This requirement was adopted in the rule. Basing the level on the busiest 3 consecutive months of the year ensures that airports have an adequate level of service during high-use periods and is consistent with guidance issued by the International Civil Aviation Organization. At times when the actual air carrier aircraft size serving the airport would permit a lower designated airport index, the certificate holder may reduce its firefighting service accordingly under § 139.319(c).

A number of commentators expressed concern that the method of determining the required index contains anomalies that would allow a Boeing 727, or higher index aircraft, to operate with the minimum firefighting capabilities provided by Index A. This could have occurred if there were less than five average daily departures of all air carrier aircraft serving the airport. Based on these comments, the method of determining the required index was revised to eliminate this anomaly and to require all certificated airports to provide an appropriate level of ARFF during air carrier operations.

The rule, as adopted, will require an Index which is determined by the largest aircraft serving the airport. If there are 5 or more air carrier operations of that aircraft group, the Index will be for that group's level. However, if there are less than 5 air carrier operations, the Index will be one Index below that specified for that aircraft group.

For example, assume the airport is served by 5 Boeing 727s and two Boeing 737s, the Index would be Index C. If the number of Boeing 727 operations dropped to 3 operations, the Index required would be Index B. If there is only one Boeing 727 operation, and no other operations by other air carrier aircraft, then the Index would remain Index B, one below the specified Index for the aircraft. The operator may use the next lower Index when there are less than 5 air carrier operations in any one air carrier aircraft group. The FAA has determined that this change will have no economic impact on existing airports. In the future, airports applying for airport operating certificates which might experience an adverse economic impact can apply for an exemption to the ARFF requirements.

interest. Reducing the requirements for the smaller airports would be inconsistent with this responsibility. Instead, a specific requirement for Index A airports, similar to existing requirements, is specified in § 139.317(a).

We believe that Index A requirements have been minimal and have not been unduly burdensome on the certificate holders. Nevertheless, we continue to be sensitive of the cost to the airports of providing an adequate rescue and firefighting capability. While the FAA has the responsibility to ensure that adequate safety standards are maintained, we are equally cognizant of the need to minimize costs. If, in the future, there appears to be a method of achieving adequate airport fire safety that is less burdensome on certificate holders, we will consider modifying our requirements accordingly.

A number of commentators opposed reducing the number of ARFF vehicles for Index B while others supported the reduction. Those opposed were concerned that a reduction would provide an inadequate ARFF capability. The FAA has determined that the capacity of the proposed vehicle is sufficient. However, the rule, as adopted, provides a one or a two-vehicle option to meet Index B requirements. Airport operators may want to select the one-vehicle option, since it offers a potential economic benefit.

A number of commenters were concerned with the opportunity under Index B or C to select an option that did not include a rapid response vehicle. It was argued that no justification existed to support requiring a vehicle, carrying 1500 gallons of water and ARFF, to respond in 3 minutes. It was alleged that this sophisticated equipment and short response requirement was not warranted. The rule, prior to this amendment, provided no option since each index required an Index A-type vehicle that could be used to satisfy the 3-minute criteria. The commenters are concerned that there would be an immediate requirement to require new vehicles to satisfy the new standard. However, the certificate holder's current equipment is "grandfathered in" under § 139.317(f) and may be used until all vehicles are replaced or rehabilitated. Advances in the state-of-the-art have now made it feasible for the new, larger ARFF vehicles to meet the response time requirements. Accordingly, the FAA has determined that it is reasonable to require a 3-minute response time for the larger vehicles, when the option selected by the airport limits available ARFF equipment to that type.

The final rule makes it clear that the amount of dry chemical required contemplates use of sodium-based dry chemical. An appropriate amount of potassium-based dry chemical may be substituted under § 139.317(i)(5).

The final rule specifies, as with AFFF discharge capacity, discharge rates for dry chemical or halon.

Section 139.319 Aircraft rescue and firefighting: Operational requirements.

A number of commenters opposed relaxing the response time for Index A. This aspect was also considered in the reevaluation of the Index A ARFF requirements, with the conclusion that a response time is essential in order to provide an effective rescue capability.

A number of commenters suggested that the requirement for ARFF vehicle communications should be outlined in the airport emergency plan. The FAA believes that the operational requirements for ARFF equipment should be specified in only one section of the regulation to avoid misinterpretation and possible confusion. The emergency plan itself, may restate these communications procedures. However, they will only be specified in the regulation in § 139.319.

A significant number of commenters disagreed with the proposal to require restricting air carrier operations after an ARFF vehicle becomes inoperable for a period greater than 8 hours, rather than the 10 days currently permitted in the rule. Concern was expressed that it might be impossible to obtain replacement parts in that time frame, and that it was overly restrictive and would impose an economic burden on airport operators. A number of commenters recommended restricting air carrier operations after 24-48 hours of a ARFF vehicle down time rather than 8 hours. After taking into consideration these views, and after assessing possible risks associated with airports having insufficient equipment for up to 10 days, the rule, as adopted, permits down time of up to 48 hours before restricting air carrier operations.

The commenters did not provide support for their assertion as to the cost of training and the FAA has found that the training is available for little or no cost in many areas. Further, it appears that many current airport firefighters already have this training (even though they may not be termed "EMT" under state licensing requirements) and virtually all professional firefighters have the training. Therefore, it appears the rule would not provide an undue burden and should provide significant benefits. After evaluating the comments, the rule is adopted, as proposed, to require that, during air carrier operations, at least one of the required firefighting personnel on duty be trained and current in basic emergency medical care.

A few commenters proposed that the access roads provision be deleted in its entirety. It was contended that the regulation should address the issue of road network and not access roads. The proposal would not require that all existing access roads be maintained but only those designated for ARFF use. The FAA is aware that there are many access roads on airports which would not be appropriate or necessary for emergency vehicle use. It would be an unnecessary burden to maintain the entire road system for such purposes. This issue can be effectively addressed by designating those roads considered essential to ARFF in the certification manual. This would clearly identify the roads to be maintained for the intended use and would ensure that the firefighters would know which roads could be relied on to gain rapid access to various parts of the airport.

Section 19.921 Handling and storing hazardous substances and materials.

Comments were received from the public and governmental sources such as NTSB. They recommended that revisions be made to the fuel handling and storage requirements. Additionally, a number of congressional comments were received expressing concern about the safety of fueling operations on airports. Other comments suggested that FAA develop regulatory procedures to ensure more effective monitoring of aircraft fueling. In this regard, it was also suggested that the FAA encourage voluntary industry efforts to address these concerns. A series of industry meetings were held regarding this issue. Subsequently, a consensus industry position was adopted consisting of a five-point program which included the recommendation that misfueling and fuel contamination precautions would be undertaken on a voluntary basis by the fuelers.

The preponderance of the commenters favored Option 2, which would rely on a voluntary industry program of tenant fueling practices and procedures to protect against misfueling, fuel contamination and provide the necessary training. This option relies heavily on the guidance contained in the FAA Advisory Circular on recommended fueling practices and procedures. Under this option the airport operator will retain responsibility for exercising control over tenant fueling practices with respect to safety from fire and explosion. A few commenters favored Option 1, which would continue to require airport operators to exercise general oversight of fueling activities, including assuming risks of fire, contamination, and misfueling. Some commenters favored certification of fuelers, and relieving airport operators from all responsibility for these hazards, while retaining airport operator responsibility for exercising some control with respect to safety from fire and explosion.

A number of concerns have been raised about each of these options. The option to certificate fuelers would be very costly and time consuming for both the FAA and industry. There are about 700 certificated airports, many with more than one tenant fueler. To create a new Federal administrative program to regulate this large and diverse number of operators would be burdensome and impractical.

Some commenters felt continuing to require airport operators to exercise general oversight over quality control and aircraft fueling and the necessary training to support these activities imposes on airport operators an inappropriate responsibility. Many expressed the view that airport personnel did not possess the necessary technical knowledge to conduct this surveillance. Other commenters expressed concern over the adequacy of obtaining a consistent level of safety by relying on voluntary programs.

Sections 121.133 and 135.21 require all air carriers to prepare and keep current a manual containing maintenance information and instructions for the use and guidance of ground operations personnel in conducting their operations. The manual must contain procedures for refueling aircraft, eliminating fuel

conduct fuel quality inspections. Through industry's own self inspection efforts quality control and reductions of fuel contamination have significantly improved.

Industry has taken a number of additional steps such as developing and installing special fuel hose nozzles and retrofit filler openings for aircraft to prevent misfueling. NATA estimates that ninety percent of the jet fuel hoses in the United States have been retrofitted with new nozzles. Although, progress has been slow in persuading the owners of aircraft which should not receive jet fuel to install preventive inserts in the aircraft's fuel filler openings, industry education programs for both the fueler and the owner have been successful in significantly reducing incidents of misfueling. In addition, the largest aviation insurance carrier for general aviation aircraft is offering to rebate to the owner all of the cost of retrofitting these filler openings.

It has been determined that voluntary programs instituted by industry have significantly reduced the safety concerns related to these activities. The FAA is not aware of any misfueling or contamination accident, since the industry voluntary programs went into effect. Under the circumstances, the FAA has concluded that relieving the airport operator of oversight responsibility for quality control and aircraft fueling activities of its tenant fuelers will not result in a derogation of safety. The rule as adopted, conforms to this option (Option 2). However, the FAA will continue to monitor fueling to determine if any additional action will be needed in the future.

Section 139.323 Traffic and wind direction indicators.

The reference to wind "tees" has been deleted because they are considered obsolete by the industry.

Section 139.325 Airport emergency plan.

A number of commenters suggested deleting the requirements for water rescue since water areas off the airport are beyond the jurisdiction of the certificate holder. Others felt that water rescue, "to the extent practicable," should have the broadest interpretation possible in order to be effective. The rule is being adopted as proposed. It requires certificate holders to attempt to locate, and coordinate with, organizations which would agree to provide water rescue services. The rule does not require the certificate holder to provide water rescue if such services are not available in the community, and therefore, does not rely on the certificate holder's jurisdiction over the water. Bodies of water adjacent to the airport have been specifically described to eliminate a concern over ambiguity expressed by a few comments. The one-quarter square mile criteria was developed to define a body of water which, in most instances, is sufficient to create significant difficulty in rescuing persons from an aircraft coming to rest in the water. Should a certificate holder have a body of water which meets the criteria, but which, due to its unique features would not create such difficulties, an exception from the requirements may be appropriate.

A number of commenters recommended that a full-scale demonstration of the emergency plan be required. The recommended time interval between demonstrations varied between 2-4 years. To assist in the evaluation, the FAA requested comments on the costs to conduct a demonstration, the extent to which airports now conduct such demonstrations, and the extent to which such demonstrations are useful. Most of the comments only addressed the time interval between demonstrations. The FAA has decided to require a full-scale demonstration of the emergency plan every 3 years. This interval will be adequate to deal with personnel turnover and provide for retraining and training of new personnel. This full-scale demonstration will require a simulated emergency having each facet of the airport emergency plan exercised as it would in an actual aircraft disaster. This will include ARFF, local medical resources, and other activities as required in the plan.

Section 139.329 Ground vehicles.

A number of commenters recommended deleting the requirements limiting vehicles on the movement areas to those necessary for airport operations. The definition of movement area, including loading ramps and parking areas, raised questions about control and access of numerous ground vehicles needed to serve aircraft during loading and unloading. It was argued that this would generate an unreasonable

A pilots' association expressed concern that other activities on the airport, such as mowing, could interfere with navigators. The intent of the proposal was to prevent such interference. In response to this comment, a new § 139.333(c) clarifies the certificate holder's responsibility.

Section 139.335 Public protection.

As a result of evaluating the comments, the FAA concluded it would be more consistent with the subject matter to remove "large animals" from this section and include it under § 139.337 Wildlife hazard management. The section is now limited to inadvertent entry of persons and vehicles.

Section 139.337 Wildlife hazard management.

A number of commentators objected to the proposal requiring safeguards against inadvertent entry onto the airport operations area by large animals. They contend that ordinary fencing is ineffective in preventing deer from entering the airport. The NTSB and a pilots' association supported the proposal which requires reasonable safeguards against inadvertent entry by all large animals. It is necessary for safety that, when a significant wildlife safety hazard has been identified, reasonable steps be taken to eliminate or reduce the hazard. A number of means, including special fencing, are available to control large animal hazards, without undue expense.

A number of commenters recommended deleting the section dealing with bird hazard management in its entirety and retaining the requirements as stated in § 139.67 of the current regulation. It was asserted that the proposal was too detailed for a regulation and more properly belongs in an Advisory Circular. A few responders felt that the proposal does not deal with other wildlife hazards. Others recommended that a definition of what constitutes a bird hazard was needed and a minimum bird control criteria be defined. As used in the final rule, wildlife has been defined to include domestic animals while out of the control of their owners. The regulation has been revised to include criteria for the identification of a wildlife hazard. These criteria were based on recommendations received from industry comments. The criteria identifies situations which may reasonably present a significant safety hazard. Section 139.337 provides for the conduct of an ecological study when any one of the specific events identified in the rule occur on or near the airport. The FAA can arrange for the Animal and Plant Health Inspection Service, of the Department of Agriculture, to conduct the ecological study at no cost to the certificate holder. In response to several comments, the final rule provides further clarification as to what is needed to make a workable wildlife hazard management plan which is consistent with all requirements.

Part 139 has required airport operators to have procedures to eliminate wildlife hazards. A new paragraph (f) has been added to § 139.337 to make it clear that airports continue to have this responsibility and implement procedures that respond immediately to wildlife hazards.

Section 139.343 Noncomplying conditions.

A number of commenters expressed concern that certificate holders should not be placed in a position requiring them to prohibit air carrier operations for whatever the reason. The group also recommended deleting the section dealing with noncomplying conditions and moving the contents to the section dealing with airport condition reporting. While the FAA agrees that these conditions should be listed in § 139.339, which requires reporting, it might still be necessary to limit air carrier operations if the condition is determined to be unsafe. Accordingly, the list of conditions has been moved to § 139.339, but § 139.343 will still require limiting air carrier operations, when appropriate. The FAA has determined that this is necessary to assure that operations are not conducted on parts of the airport that do not meet minimum safety requirements.

After considering all of the comments, the FAA has decided to adopt the amendment proposed in Notice No. 85-22, as modified by FAA's evaluation of the comments as set forth above. The amendment substantially reorganizes Part 139. Subpart A—General, contains the applicability provisions and definitions used in the Part. Subpart B—Certification, sets forth the general rules pertaining to the eligibility, application,

Assumptions used to prepare economic estimates for the various changes to Part 139 have been developed by the FAA. The estimates of economic impacts for the final rule revisions have been constructed from unit cost and other data obtained from operators, industry trade associations, and manufacturers.

In the Notice of Proposed Rulemaking (NPRM), the FAA invited public comments concerning the technical and operational considerations and economic impact assumptions as these apply to emergency medical services, aviation fuel training courses, the cost of collisions with large wildlife, and the conduct of full-scale emergency demonstrations. Comments on the proposal were submitted by airport industry trade associations, local and state governments, and private sector organizations. The majority of the comments recommended only technical modifications and clarifications. A number of comments, however, disagreed with the economic impact estimates of various proposals. The FAA has evaluated the public comments and made a final determination regarding their impact. With one exception, the FAA finds the initial determination of the expected economic impact of the proposals to be the same for the final rule. The exception is the proposal requiring additional fencing for several airports to safeguard against inadvertent entry onto operations areas by all large animals. This requirement has been eliminated as a result of industry comments and subsequent FAA technical assessment.

The FAA finds that with the exception of the optional reduction in the number of firefighting vehicles provided by § 139.317(b) (1) and (2) and 139.317(c) (1) and (2), and the emergency medical services training requirements of § 139.319(j)(4), the remaining proposals affecting Part 139 airports will have a negligible cost or no cost impact.

If all 74 of the affected Index B airports disposed of one of their two vehicles, the maximum potential savings under § 139.317(b) (1) and (2) would have a current value of \$9,990,000. The FAA, however, has not been able to determine how many of the 74 airports subject to the firefighting and rescue provisions of Index B will adopt the option provided by this amendment. The FAA, therefore has not estimated the actual benefit that will accrue to Index B airports from this amendment. An undetermined number of Index B airports, however, will realize annualized savings of \$135,000 as a result of not being required to maintain and replace one of the two firefighting vehicles required by the current rule.

If all 97 of the affected Index C airports disposed of one of their three vehicles, the maximum potential savings under § 139.317(c) (1) and (2) would have a current value of \$15,520,000. The FAA, however, has not been able to determine how many of the 97 airports subject to the firefighting and rescue provisions of Index C will adopt the option provided by this amendment. The FAA, therefore, has not estimated the actual benefit that will accrue to Index C airports from this amendment. An undetermined number of Index C airports, however, will realize annualized individual savings of \$160,000 as a result of not being required to maintain and replace one of the three firefighting vehicles required by the current rule.

The cost of requiring at least one person on duty during air carrier operations to be trained in basic emergency medical care will be a one-time cost of \$930 or a combined cost of \$357,000 on the 384 Index A and limited certificated airports which will be required to train two persons in basic emergency medical services.

The benefits of this rule have not been quantified. Undetermined benefits are expected to accrue to travelers and airport personnel from the provision of emergency medical services in the event of sudden illness or accident. The FAA estimates that for benefits to exceed costs, the proposed rule would have to prevent only one fatality valued at \$1,000,000, in 1986 dollars, over the 11 year period following its implementation.

The FAA has determined that these amendments will not have a significant economic impact on a substantial number of small entities. The revision to § 139.317(b) (1) and (2) would affect the 74 airports now complying with the firefighting and rescue provisions of Index 0. Since only 16 of these airports are small entities, the revision to § 139.317(b) (1) and (2) would not affect a substantial number of the 74 impacted airports. The rule change to § 139.317(c) (1) and (2) will provide the 97 airports,

The FAA has determined that, because these amendments would only affect airports located in U.S. communities, the sale of foreign products domestically, or the sale of U.S. products or services in foreign countries will not be influenced.

Therefore, it is FAA's opinion that this rule will not eliminate existing, or create additional barriers to the sale of foreign aviation products or services in the United States. FAA also certifies that the rule will not eliminate existing, or create additional barriers to the sale of U.S. aviation products and services in foreign countries.

Reporting and Record Keeping

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the new reporting or record keeping provisions in this amendment were submitted to the Office of Management and Budget (OMB) and have been approved. This final rule adds the OMB control number assigned to these requirements to the list of control numbers in § 11.101.

Conclusion

The only cost that will be imposed on airport operators by this final rule is a one-time cost for the training of a limited number of individuals in basic emergency medical care. This cost is expected to total \$357,000 for 384 airports. The rule is otherwise expected to have a minimal cost impact.

Therefore, the FAA has determined that this amendment involves a regulation which is not major under Executive Order 12291. However, because of the substantial public interest generated by some subjects, the FAA has determined that this amendment is significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

With respect to the cost savings under the final rule, only 16 of the 74 airports affected by § 139.317(b) and only 8 of the 97 airports affected by § 139.317(c) are small entities. The one-time medical training costs of \$930 imposed by § 139.319(j)(4) are less than the annualized threshold of \$5,400 established for significant impact.

Therefore, it is certified that this amendment would not have a significant economic impact on a substantial number of small entities. A final regulatory evaluation has been prepared and placed in the regulatory docket. A copy may be obtained by contacting the person listed under "FOR FURTHER INFORMATION CONTACT."

The Amendment

Accordingly, the Federal Aviation Administration revises 14 CFR Part 139 of the Federal Aviation Regulations, effective January 1, 1988, as follows:

PART 139—CERTIFICATION AND OPERATIONS: LAND AIRPORTS SERVING CERTAIN AIR CARRIERS

Subpart A—General

- 139.1 Applicability.
- 139.3 Definitions.
- 139.5 Standards and procedures for compliance with the certification and operations requirements of this part.

Subpart B—Certification

- 139.101 Certification Requirements: General.
- 139.103 Application for certificate.
- 139.105 Inspection authority.
- 139.107 Issuance of certificate.

- 139.209 Limited airport operating certificate: airport certification specifications.
- 139.211 Preparation of airport certification specifications.
- 139.213 Contents of airport certification specifications.
- 139.215 Maintenance of airport certification specifications.
- 139.217 Amendment of airport certification manual or airport certification specifications.

Subpart D—Operations

- 139.301 Inspection authority.
- 139.303 Personnel.
- 139.305 Paved areas.
- 139.307 Unpaved areas.
- 139.309 Safety areas.
- 139.311 Marking and lighting.
- 139.313 Snow and ice control.
- 139.315 Aircraft rescue and firefighting: Index determination.
- 139.317 Aircraft rescue and firefighting: Equipment and agents.
- 139.319 Aircraft rescue and firefighting: Operational requirements.
- 139.321 Handling and storing of hazardous substances and materials.
- 139.323 Traffic and wind direction indicators.
- 139.325 Airport emergency plan.
- 139.327 Self-inspection program.
- 139.329 Ground vehicles.
- 139.331 Obstructions.
- 139.333 Protection of nav aids.
- 139.335 Public protection.
- 139.337 Wildlife hazard management.
- 139.339 Airport condition reporting.
- 139.341 Identifying, marking, and reporting construction and other unserviceable areas.
- 139.343 Noncomplying conditions.

Authority: 49 U.S.C. 1354(a) and 1432; 49 U.S.C. section 106(g) (Revised, Pub. L. 97-449, January 12, 1983).

Amendment 139-15

Airport Certification; Extension of Certain Compliance Dates

Adopted: October 12, 1988

Effective: October 18, 1988

(Published in 53 FR 40842, October 18, 1988)

SUMMARY: This amendment extends the compliance date for certain new requirements applicable to airports certificated under 14 CFR Part 139. In the November 18, 1987, issue of the *Federal Register* (52 FR 44276), the FAA published a final rule revising and reorganizing 14 CFR Part 139. The final rule was effective on January 1, 1988. Subsequent to the issuance of the final rule, numerous airports have petitioned the FAA for exemption from various requirements of the rule. Three new requirements have generated the overwhelming percentage of the petitions. The petitions for exemption have requested additional time to permit the airports an opportunity to come into compliance. The FAA has concluded that the exemption process is an unnecessarily burdensome and inefficient approach for providing an adequate transition period. This document serves to address the problem by amending the final rule published November 18, 1987, to extend the compliance dates for these three requirements to permit airports an opportunity to come into compliance without the need for obtaining an exemption.

With respect to the marking and lighting provision, the FAA recognizes that immediate compliance with the new requirements by all airports is not possible. Indeed, the preamble in the notice of proposed rulemaking (NPRM) stated that the "FAA would work with airports whose lighting and marking systems do not comply with current standards to bring them into compliance over a 4 to 5-year period." 50 FR 43097. However, at the NPRM stage the FAA believed that "the vast majority of affected airports have these lighting and marking systems." 50 FR 43097. It was envisioned that those airports not in compliance would be granted exemptions pending completion of the needed airport improvements over the next several years.

It is now clear that a significant number of airports do not meet the marking and lighting requirements in at least some fashion, thus making the exemption approach to noncompliance burdensome and inefficient for both airports and the FAA. Indeed, given the large number of airports requiring exemptions, general rulemaking is a far more appropriate administrative approach. The extension of the compliance date will permit airports to come into compliance within the time period identified in the NPRM and without the burden of the exemption process. The amended rule makes clear, however, that marking and lighting systems that are on the airport must be maintained.

Similarly, the limited extension in the compliance date for the two training requirements is designed to better transition from the previous rule requirements to those of the current rule. While there is already substantial compliance with the training provisions, scheduling and completing the training for the remaining individuals will take several more months. Neither the FAA nor the commenters to the NPRM fully appreciated the logistical implications of these otherwise straightforward requirements.

Notice and Public Procedure

Since this final rule merely extends the compliance date for three provisions of a regulation recently issued after an extended rulemaking process, addresses issues fully explored in the process, and imposes no additional burdens on any person, the FAA has determined that notice and public procedure are not necessary. Furthermore, since this final rule involves a situation requiring immediate action to relieve the burden on airports to petition for exemptions, notice and public procedure are also impractical. This final rule shall become effective in less than 30 days to avoid the burden that would otherwise be imposed on airports and the FAA by adherence to the exemption process.

Trade Impact Statement

This final rule affects only domestic airports subject to Part 139 of the Federal aviation regulations. Accordingly, this rule has no impact on trade opportunities for U.S. firms doing business in the United States.

Federalism Implication

The regulations adopted herein do not have substantial direct effects on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of Government. Thus, in accordance with Executive Order 12612, preparation of a Federalism Assessment is not warranted.

Conclusion

The FAA has determined this final rule will not impose any costs on airport operators. The FAA has not quantified any specific economic benefits from the final rule, although it is expected that the rule will save airport operators some time and expense by eliminating the need to petition for exemptions. For this reason, it has been determined that the expected economic impact of the amendment is so minimal that a full Regulatory Evaluation is not warranted. Therefore, the FAA has determined that this final rule involves a regulation which is not major under Executive Order 12291. The FAA has determined also that this final rule is not significant under DOT Regulatory Policies and Procedures

Organizational Changes and Delegations of Authority

Adopted: September 15, 1989

Effective: October 25, 1989

(Published in 54 FR 39288, September 25, 1989)

SUMMARY: This amendment adopts changes to office titles and certain terminology in the regulations that were affected by a recent agencywide reorganization. These changes are being made to reflect delegations of authority that were changed, as well as offices that were renamed or abolished and replaced with new office designations. These changes are necessary to make the regulations consistent with the current agency structure.

FOR FURTHER INFORMATION CONTACT: Jean Casciano, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; Telephone (202) 267-9683.

SUPPLEMENTARY INFORMATION

Background

On July 1, 1988, the FAA underwent a far-reaching reorganization that affected both headquarters and regional offices. The most significant change is that certain Regional Divisions and Offices, which formerly reported to the Regional Director, are now under "straight line" authority, meaning that these units within each Regional Office report to the appropriate Associate Administrator (or Chief Counsel) in charge of the function performed by that unit.

Within Part 11 of the Federal Aviation Regulations (FAR), various elements of the FAA have been delegated rulemaking authority by the Administrator. These delegations need to be updated. In addition, throughout the Federal Aviation Regulations references are made to offices that have been renamed or are no longer in existence as a result of reorganization. Title 14 of the Code of Federal Regulations must therefore be amended to reflect the reorganizations and changes that have taken place.

Paperwork Reduction Act

The paperwork requirements in sections being amended by this document have already been approved. There will be no increase or decrease in paperwork requirements as a result of these amendments, since the changes are completely editorial in nature.

Good Cause Justification for Immediate Adoption

This amendment is needed to avoid possible confusion about the FAA reorganization and to hasten the effective implementation of the reorganization. In view of the need to expedite these changes, and because the amendment is editorial in nature and would impose no additional burden on the public, I find that notice and opportunity for public comment before adopting this amendment is unnecessary.

Federalism Implications

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the National government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

In consideration of the foregoing, the Federal Aviation Administration amends the Federal Aviation Regulations (14 CFR Chapter I) effective October 25, 1989.

The authority citation for Part 139 continues to read as follows:

Authority: 49 U.S.C. 1354(a), and 1432; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983).

Amendment 139-17

Airport Certification of Various Provisions

Adopted: November 13, 1990

Effective: December 19, 1990

(Published in 55 FR 48212, November 19, 1990)

SUMMARY: This final rule makes two changes to the certification and operations regulations of land airports serving air carriers. The first change revises the certification requirements to provide that a person operating an uncertificated airport may serve, when authorized by the Administrator, unscheduled air carrier operations with aircraft having a seating capacity of more than 30 passengers. As revised, airport certification requirements and the regulations applicable to air carrier operations are consistent in this regard. The second change clarifies responsibility for the establishment of and compliance with rules for airport ground vehicle operations by tenants, contractors, and employees. This change is necessary to address the responsibility of certificate holders with regard to ground vehicle operations.

FOR FURTHER INFORMATION CONTACT: Mr. Jose Roman, Airport Safety and Operations Division (AAS-300), Office of Airport Safety and Standards, 800 Independence Avenue, SW., Washington, DC 20591, Telephone (202) 724-0356.

SUPPLEMENTARY INFORMATION:

Background

Part 139 of the Federal Aviation Regulations (FAR) prescribes rules governing the certification and operation of land airports serving certain air carrier operations conducted with aircraft having a seating capacity of more than 30 passengers. In 1987, FAA issued a final rule, Amendment No. 139-14 (52 FR 44276; November 18, 1987), that revised and reorganized Part 139 to clarify it, to define certain requirements more specifically, and to impose additional safety requirements. After the issuance of the final rule, it became evident to the FAA that changes were necessary to make these regulatory requirements consistent with air carrier operations regulations and to further clarify the requirements of Part 139. In addition, on October 11, 1988, FAA received a joint petition for rulemaking from the Airport Operators Council International (AOCI) and the American Association of Airport Executives (AAAE) to clarify responsibility for regulatory violations concerning airport ground vehicle operations. As a result, FAA issued a Notice of Proposed Rulemaking (NPRM) No. 89-30 on October 10, 1989 (54 FR 42912; October 18, 1989).

The NPRM proposed two changes. First, it proposed to amend § 139.101(b) to allow the Administrator to authorize the operator of an uncertificated airport to serve unscheduled air carrier operations with aircraft having a seating capacity of more than 30 passengers. This change was proposed to make the certification regulations in Part 139 consistent with the operations regulations in § 121.590 that permit such operations when authorized by the Administrator.

not include in the proposed rule language that would establish strict liability for airport operators. The petitioners noted also that the change in the wording of the rule provision from the 1985 NPRM to the 1987 final rule was not discussed in the preamble of that final rule.

A summary of the petition was published in the *Federal Register* on November 14, 1988 (53 FR 45771). In response to the petition, the FAA received approximately 20 comments supporting the request for change. No responses were received opposing the petition, although the Air Line Pilots Association (ALPA) has since stated that it submitted opposing comments in response to the petition summary. The FAA has no record of receipt of ALPA's comments at that time; however, its comments were resubmitted in response to the NPRM in this rulemaking (NPRM No. 89-30), and have been considered and addressed in the discussion of comments below.

The FAA concurred with AOCI/AAAE that the language in § 139.329(e) should be revised, and the petitioners' issue was addressed in NPRM No. 89-30 issued last October. The preamble to the NPRM stated that it was not the intent of the FAA in the 1987 revision to establish strict liability on the part of the airport operators with regard to ground vehicle operations; rather, the intent was to require airport operators to have adequate procedures to control ground vehicle operations where there is access to the airport movement areas. The NPRM proposed to delete the words "and complies" from § 139.329(e) and to modify paragraphs (b) and (e) of § 139.329 to clarify the responsibilities of airport operators.

Discussion of Comments

The FAA received 194 comments in response to the NPRM. None of these comments addresses the proposed revision to § 139.101(b); hence, the revision is adopted as proposed. As revised, § 139.101(b) will permit the operator of an uncertificated airport, when authorized by the Administrator, to serve unscheduled air carrier operations with aircraft having a seating capacity of more than 30 passengers. This revision is designed to address emergency and unusual circumstances.

Of the 194 comments that addressed the issue of control of ground vehicles, 192 are in general agreement. Most of the comments received were from airport operators representing a broad spectrum of airports. Almost 90 percent of the comments received were similar letters that used text suggested by AAAE. This text urged adoption of the proposed revision. The text stated further that, on a broader level, there is concern about the FAA's apparent general policy of holding airport operators liable for violations of regulations by tenants, independent contractors, and others whose behavior the airport operator cannot reasonably control. Four commenters submitted essentially identical letters that used language developed by AOCI. These commenters state that, while they prefer the AOCI proposal to revise § 139.329(e) by simply deleting "and complies," they do not oppose the FAA's more extensive proposal to revise paragraph (b) as well. While applauding FAA's action to clarify the strict liability concerns raised by § 139.329(e), these commenters point out that airports are subject to strict liability for violations of other regulations by tenants and contractors, e.g., certain security violations of FAR Part 107; they urge FAA to change its policy of holding airports strictly liable under such regulations for the actions of others which these commenters believe they cannot reasonably control.

The two commenters who oppose this clarification of airport operator liability argue that responsibility for safe ground vehicle operations should reside with the airport operator and should not be abrogated. One, an aviation service company, a tenant on a public-use airport, adamantly disagrees with the proposed revision that it views as relieving airport operators from ground vehicle operation responsibility. This commenter states that mismanagement of operational aspects of an airport rightly should place the airport operator's certificate in jeopardy. The other, Air Line Pilots Association (ALPA), also opposes the clarification that limits airport operators' responsibility. In particular, ALPA notes that control of ground vehicles is a significant safety problem at many airports, and "... the airport is the proper authority to regulate and enforce the movement of ground vehicles."

Additionally, ALPA believes that the FAA should assist each airport operator in developing a program addressing every aspect of ground vehicle movement. In ALPA's view, such a program would include

procedures, it also recognizes that such procedures must reflect the specific needs of each airport. The procedures may vary based upon airport size and complexity, the number and type of ground vehicle operations, and other differences among airports. Therefore, while the FAA has not mandated a specific uniform program, it will continue to assist airport operators in developing procedures consistent with each airport's particular circumstances.

The National Air Transportation Association (NATA) in its comments does not object to the language proposed in the NPRM, but it does express concern about what it describes as a continuing effort by airport operators to avoid responsibility for activities occurring on airports. NATA favors airport operators establishing and implementing adequate procedures for the safe operation of ground vehicles. Not only is it in the tenant's best interest to operate ground vehicles safely, adds NATA, but the potential cost of unsafe operations is an economic incentive for employers of ground vehicle operators to ensure that their employees are properly trained.

Concurring with NATA's argument for retention of airport operators' responsibility for airport operations, the FAA is issuing this rule revision—not to relieve airport operators of responsibility—but rather to clarify the extent of their duties and obligations. FAA agrees also with NATA's focus on training regarding ground vehicle safety. It is the FAA's position that ground vehicle operation safety on airports can best be accomplished by developing comprehensive guidelines and appropriate training requirements for airport personnel, tenants, contractors and others who operate these vehicles. Consequently, a jointly developed FAA and industry report entitled "A Guide to Ground Vehicle Operations on the Airport," soon to be issued by the FAA, addresses employee instruction regarding safe ground vehicle operation, and includes information on signs, lights, markings and tower communications.

While supportive of this clarification of existing regulatory text, the Air Transport Association (ATA) believes that the revision should address "reasonableness" with regard to program establishment and implementation. The FAA finds that the "reasonableness" of any vehicle operations program is fostered by the exchange of information among the airport sponsor, tenants, air carriers and other operators on the airport who meet regularly with the airport sponsor to discuss operational and other matters. The FAA's review of ground vehicle control procedures when they are initially established, during the annual airport certification inspection, and during surveillance or other inspections provides ample opportunities to address the reasonableness of an airport's program.

Another commenter suggests that additional language be added to § 139.329(b) and (e) to specify in detail the consequences of violations, "including fines and/or temporary loss of driving privileges." The FAA does not agree that such specificity in the regulations is necessary. Because of the size, complexity, and diversity of airport operations, the specific consequences of violations are best addressed in each airport's procedures.

Several commenters articulate concerns that are far broader than the issues presented for consideration in the NPRM. Some of these concerns—such as airport operators' liability for the actions of tenants and contractors in circumstances unrelated to ground vehicle operations—were incorporated in the text provided by AAAE and AOCI and used by the majority of commenters. For example, the Tupelo (Mississippi) Airport Authority's submission, after noting its support of the proposed revision, adds: "We also urge a review of FAA's policy of holding airport operators liable for an array of other tenant infractions. . . ."

Other commenters make reference to fines imposed for regulatory infractions. For example, comments submitted by the Ocala (Florida) Municipal Airport note that, unlike the impact on larger airports such as those in Atlanta, Chicago or Orlando, imposition of significant fines on the Ocala Municipal Airport would "have a devastating impact."

In a similar vein, comments submitted by the New Orleans International Airport state that "airports already face liability for violations by tenants and others over which we have no control. These violations and the attendant fines are levied in spite of the fact that the airports have taken corrective action in an expeditious manner."

the consequences of noncompliance with the procedures by employees, tenants, and contractors. In contrast, the text of this section prior to revision mandated that airport operators only provide procedures for such ground vehicle operations. Consequently, the final rule clearly holds airport operators responsible for developing and implementing procedures appropriate to the airport, as well as for identifying the consequences of noncompliance.

Additionally, this final rule changes § 139.329(e) to require that airport operators ensure that employees, tenants, and contractors operating ground vehicles where there is access to the movement areas are familiar with the consequences of noncompliance with the procedures. The requirement for the airport operator to ensure that employees, tenants, and contractors are familiar with the procedures remains unchanged. Prior to this revision this section included language that an airport operator ensure that each individual who operates a ground vehicle "complies with" the airport's procedures for ground vehicle operations. The revised rule eliminates the language that created uncertainty about airport operators' liability and clearly establishes airport operators' responsibility for communicating the consequences for noncompliance.

Paperwork Reduction Act

The amendments to §§ 139.101 and 139.329 do not change any recordkeeping or reporting burden associated with those sections. Information collection requirements in Part 139 have previously been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2120-0063.

Regulatory Evaluation

The changes to Part 139 will likely result in some regulatory relief and impose negligible costs upon certificate holders. The amendment to § 139.329(e) will provide some regulatory relief through language clarification because the airport operator will no longer be misperceived as the guarantor of the compliance of all its tenants and contractors. The FAA has not quantified any specific economic benefits, although there are some perceived benefits, as reflected in the AOCI/AAAE petition. The amendment to § 139.329(b), however, may impose negligible costs because the standard will require the certificate holder to also identify the consequences of noncompliance. In conclusion, the FAA has determined that the expected economic impact of the amendments are minimal and, therefore, a full Regulatory Evaluation is not warranted.

International Trade Impact Analysis

The amendments affect only airports subject to Part 139 of the Federal Aviation Regulations. Accordingly, the amendments have no impact on trade opportunities for U.S. firms doing business overseas and foreign firms doing business in the United States.

Federalism Implications

The regulations herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this regulation will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Evaluation and the International Trade Impact Analysis, the FAA has determined that this regulation is not major under Executive Order 12291 and not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Additionally, it is certified that, under the criteria of the Regulatory Flexibility Act, this regulation will not have a significant economic impact, positive or negative, on a substantial number of small entities.

in regard to airspace classifications. These changes are intended to: (1) simplify airspace designations; (2) achieve international commonality of airspace designations; (3) increase standardization of equipment requirements for operations in various classifications of airspace; (4) describe appropriate pilot certificate requirements, visual flight rules (VFR) visibility and distance from cloud rules, and air traffic services offered in each class of airspace; and (5) satisfy the responsibilities of the United States as a member of the International Civil Aviation Organization (ICAO). The final rule also amends the requirement for minimum distance from clouds in certain airspace areas and the requirements for communications with air traffic control (ATC) in certain airspace areas; eliminates airport radar service areas (ARSAs), control zones, and terminal control areas (TCAs) as airspace classifications; and eliminates the term "airport traffic area." The FAA believes simplified airspace classifications will reduce existing airspace complexity and thereby enhance safety.

EFFECTIVE DATES: These regulations become effective September 16, 1993, except that §§ 11.61(c), 91.215(b) introductory text, 91.215(d), 71.601, 71.603, 71.605, 71.607, and 71.609 and Part 75 become effective December 12, 1991, and except that amendatory instruction number 20, § 71.1, is effective as of December 17, 1991 through September 15, 1993, and that §§ 71.11 and 71.19 become effective October 15, 1992. The incorporation by reference of FAA Order 7400.7 in § 71.1 (amendatory instruction number 20) is approved by the Director of the Federal Register as of December 17, 1991 through September 15, 1993. The incorporation by reference of FAA Order 7400.9 in § 71.1 (amendatory instruction number 24) is approved by the Director of the Federal Register as of September 16, 1993 through September 15, 1994.

FOR FURTHER INFORMATION CONTACT: Mr. William M. Mosley, Air Traffic Rules Branch, ATP-230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone (202) 267-9251.

SUPPLEMENTARY INFORMATION:

Background

On April 22, 1982, the NAR plan was published in the *Federal Register* (47 FR 17448). The plan encompassed a review of airspace use and the procedural aspects of the ATC system. Organizations participating with the FAA in the NAR included: Aircraft Owners and Pilots Association (AOPA), Air Line Pilots Association (ALPA), Air Transport Association (ATA), Department of Defense (DOD), Experimental Aircraft Association (EAA), Helicopter Association International (HAI), National Association of State Aviation Officials (NASAO), National Business Aircraft Association (NBAA), and Regional Airline Association (RAA).

The main objectives of the NAR were to:

- (1) Develop and incorporate a more efficient relationship between traffic flows, airspace allocation, and system capacity in the ATC system. This relationship will involve the use of improved air traffic flow management to maximize system capacity and to improve airspace management.
- (2) Review and eliminate, wherever practicable, governmental restraints to system efficiency thereby reducing complexity and simplifying the ATC system.
- (3) Revalidate ATC services within the National Airspace System (NAS) with respect to state-of-the-art and future technological improvements.

In furtherance of the foregoing objectives, several NAR task groups were organized and assigned to review various issues associated with airspace classifications and ATC procedures, pilot certification requirements, and aircraft equipment and operating requirements in the different categories of airspace

Class B Airspace (U.S. Terminal Control Areas). Operations may be conducted under IFR, special visual flight rules (SVFR), or VFR. However, all aircraft are subject to ATC clearances and instructions. ATC separation is provided to all aircraft.

Class C Airspace (U.S. Airport Radar Service Areas). Operations may be conducted under IFR, SVFR, or VFR; however, all aircraft are subject to ATC clearances and instructions. ATC separation is provided to all aircraft operating under IFR or SVFR and, as necessary, to any aircraft operating under VFR when any aircraft operating under IFR is involved. All VFR operations will be provided with safety alerts and, upon request, conflict resolution instructions.

Class D Airspace (U.S. Control Zones for Airports with Operating Control Towers and Airport Traffic Areas that are not associated with a TCA or an ARSA). Operations may be conducted under IFR, SVFR, or VFR; however, all aircraft are subject to ATC clearances and instructions. ATC separation is provided to aircraft operating under IFR or SVFR only. All traffic will receive safety alerts and, on pilot request, conflict resolution instructions.

Class E Airspace (U.S. General Controlled Airspace). Operations may be conducted under IFR, SVFR, or VFR. ATC separation is provided only to aircraft operating under IFR and SVFR within a surface area. As far as practical, ATC may provide safety alerts to aircraft operating under VFR.

Class F Airspace (U.S. Has No Equivalent). Operations may be conducted under IFR or VFR. ATC separation will be provided, so far as practical, to aircraft operating under IFR.

Class G Airspace (U.S. Uncontrolled Airspace). Operations may be conducted under IFR or VFR. ATC separation is not provided.

Discussion of the Amendments and Public Comments

This final rule is based on Notice of Proposed Rulemaking (NPRM) No. 89-28 (54 FR 42916; October 18, 1989). The rule amends Parts 1, 11, 45, 61, 65, 71, 75, 91, 93, 101, 103, 105, 121, 127, 135, 137, 139, and 171 and Special Federal Aviation Regulations (SFAR) 51-1, 60, and 62. These parts either incorporate airspace designations and operating rules or amend the existing rule to meet the new classification language.

Amendments to Part 1 delete the definition of an "airport traffic area" and add definitions of "Special VFR conditions" and "Special VFR operations."

The amendments to Part 71 establish a new Subpart M—Jet Routes and Area High Routes that includes the existing rules in Part 75 as of *December 17, 1991*; revise §§ 71.11 and 71.19 as of October 15, 1992; and revise all of Part 71 to reclassify U.S. airspace in accordance with the ICAO designations as of September 16, 1993. (Further information on the amendments to Part 71 appears in this discussion under *Revisions to Part 71*.) Under this amendment the positive control areas (PCAs), jet routes, and area high routes are reclassified as Class A airspace areas; TCAs are reclassified as Class B airspace areas; ARSAs are reclassified as Class C airspace areas; control zones for airports with operating control towers and airport traffic areas that are not associated with the primary airport of a TCA or an ARSA are reclassified as Class D airspace areas; all Federal airways, the Continental Control Area, control areas associated with jet routes outside the Continental Control Area, additional control areas, control area extensions, control zones for airports without operating control towers, transition areas, and area low routes are reclassified as Class E airspace areas; and airspace which is not otherwise designated as the Continental Control Area, a control area, a control zone, a terminal control area, an airport radar service area, a transition area, or special use airspace is reclassified as Class G airspace. Because airport traffic areas are not classified as airspace areas, this amendment establishes controlled airspace for airports with operating control towers, but without control zones.

jurisdiction over the airspace concerned is permitted to authorize deviations from the transponder requirements in § 91.215(b) and that a request for a deviation due to an inoperative transponder or an operating transponder without operating automatic pressure altitude reporting equipment having Mode C capability may be made at any time. To provide maximum flexibility to ATC and aircraft operators, this amendment has an effective date of December 12, 1991.

Amendments to Parts 11, 45, 61, 65, 93, 101, 103, 105, 121, 127, 135, 137, 139, and 171 change the terminology to integrate the adopted airspace classifications into respective regulations that refer to those airspace assignments and operating rules. In addition, § 11.61(c) is amended to meet an administrative change within the FAA for titles of persons under the term "Director."

The final rule includes modifications to the proposed rules based on amendments to the FAR that have become effective since the publication of NPRM No. 89-28. The section numbers to Part 91 are changed to match the section numbers designated by Amendment No. 91-211, Revision of General Operating and Flight Rules (54 FR 34292; August 19, 1989). Sections 91.129 and 91.130 are modified to include revisions to § 91.130 by Amendment No. 91-215, Airport Radar Service Area (ARSA) Communication Requirement (55 FR 17736; April 26, 1990). Section 91.131(c) is modified to include revisions from Amendment No. 91-216, Navigational Equipment Requirement in a Terminal Control Area (TCA) and Visual Flight Rules (VFR) Operations (55 FR 24822; June 18, 1990). Section 91.117(a) is modified to include revision by Amendment No. 91-219, Revision to General Operating and Flight Rules (55 FR 34707; August 24, 1990).

Section 91.155(b)(1) is modified to include a revision by Amendment No. 91-224, Inapplicability of Basic VFR Weather Minimums for Helicopter Operations (56 FR 48088; September 23, 1991). Section 91.155(c) was revised by Amendment No. 91-213, Night-Visual Flight Rules Visibility and Distance from Cloud Minimums (55 FR 10610; March 22, 1990) and was corrected on July 19, 1990 (55 FR 29552) and November 13, 1990 (55 FR 47309).

In this amendment, the FAA does not adopt the proposal to lower the Continental Control Area to 1,200 feet above the surface and to establish the United States Control Area as proposed in NPRM No. 88-2. The FAA will not adopt this proposal and the regulatory agenda will be revised to delete the U.S. Control Area project.

On October 4, 1990, the FAA established SFAR No. 60—Air Traffic Control System Emergency Operations (55 FR 40758) and on December 5, 1990, the FAA established SFAR No. 62—Suspension of Certain Aircraft Operations from the Transponder with Automatic Pressure Altitude Reporting Capability Requirement (55 FR 50302). These SFARs are revised by replacing references to such terms as "terminal control area" with "Class B airspace area" to integrate the appropriate airspace classification.

Obsolete clauses in the existing rule are deleted and typographical errors in the proposal are corrected. The final rule also revises affected paragraphs of the existing rule requiring modification as a result of the rulemaking action but not included in NPRM No. 89-28. The modifications to these paragraphs replace such terms as "terminal control area" and "control zone" with language to integrate the appropriate airspace classification.

Under airspace reclassification, the Sabre U.S. Army Heliport (Tennessee) Airport Traffic Area will become a Class D airspace area; the Jacksonville, Florida, Navy Airport Traffic Area will become three separate but adjoining Class D airspace areas; and the El Toro, California, Special Air Traffic Rules will become part of the El Toro Class C airspace area. Currently, these airports operate under special air traffic rules in Subparts N, O, and R of Part 93. To achieve a goal of airspace reclassification, which is to simplify airspace, the existing rules for these airspace areas are to be deleted as of September 16, 1993. Therefore, this amendment removes and reserves Subparts N, O, and R of Part 93 as of September 16, 1993.

Part 75—Establishment of Jet Routes & Area High Routes

§ 75.1	Applicability.
§ 75.11	Jet routes.
§ 75.13	Area routes above 18,000 feet MSL.
§ 75.100	Jet routes.
§ 75.400	Area high routes.

Part 71, Subpart M—Jet Routes & Area High Routes

§ 71.601	Applicability.
§ 71.603	Jet routes.
§ 71.605	Area routes above 18,000 feet MSL.
§ 71.607	Jet route descriptions.
§ 71.609	Area high route descriptions.

Sections 71.607, Jet route descriptions, and 71.609, Area high route descriptions are not set forth in the full text of this final rule. The complete listing for all jet routes and area high routes can be found in FAA Order 7400.7, *Compilation of Regulations*, which was last published as of April 30, 1991, and effective November 1, 1991. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of this order may be obtained from the Document Inspection Facility, APA-220, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, (202) 267-3484. Copies may be inspected in Docket Number 24456 at the Federal Aviation Administration, Office of the Chief Counsel, AGC-10, Room 915G, 800 Independence Avenue, SW., Washington, D.C. 20591 weekdays between 8:30 a.m. and 5 p.m. or at the Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C. The Part 75 sections referenced in FAA Order 7400.7 will be redesignated as Part 71 sections in the next revision to FAA Order 7400.7.

The second revision amends existing § 71.11, Control zone, and § 71.19, Bearings; radials; miles, and is effective October 15, 1992. This revision relates to the FAA's parallel reviews of certain airspace areas. The revision to § 71.11 permits the Administrator to terminate the vertical limit of a control zone at a specified altitude. The revision to § 71.19 provides for the conversion from statute miles to nautical miles and consists of the same language as § 71.7 that is effective September 16, 1993. More detail on the review of certain airspace areas is found under the title *Implementation of Airspace Reclassification*.

The third revision to Part 71 establishes a new Part 71 that includes the adopted airspace designations. This amendment, which is effective September 16, 1993, transfers the current sections of existing Part 71, including Subpart M—Jet Routes and Area High Routes, to this new Part 71. The following table lists the sections of existing Part 71, including Subpart M and the corresponding sections in the new Part 71, that are effective September 16, 1993. Subparts B through K and §§ 71.501(b), 71.607, and 71.609, which list airspace descriptions, are not set forth in the full text of this final rule. The complete listing for these airspace designations can be found in FAA Order 7400.9, *Airspace Reclassification*, which is effective September 16, 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of this order may be obtained from the Document Inspection Facility, APA-220, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, (202) 267-3484. Copies may be inspected in Docket Number 24456 at the Federal Aviation Administration, Office of the Chief Counsel, AGC-10, Room 915G, 800 Independence Avenue, SW., Washington, D.C. 20591 weekdays between 8:30 a.m. and 5 p.m. or at the Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C.

§ 71.6	Extent of area low routes.	§ 71.77	Extent of area low routes.
§ 71.7	Control areas.		Not applicable.
§ 71.9	Continental control area.	§ 71.71	Class E airspace.
§ 71.11	Control zones.		Not applicable.
§ 71.12	Terminal control areas.	§ 71.41	Class B airspace.
§ 71.13	Transition areas.	§ 71.71	Class E airspace.
§ 71.14	Airport radar service areas.	§ 71.51	Class C airspace.
§ 71.15	Positive control areas.	§ 71.31	Class A airspace.
§ 71.17	Reporting points.	§ 71.5	Reporting Points.
§ 71.19	Bearings; Radials; Miles.	§ 71.7	Bearings, radials, mileages.

Subpart B—Colored Federal Airways

§ 71.101	Designation.
§ 71.103	Green Federal airways.
§ 71.105	Amber Federal airways.
§ 71.107	Red Federal airways.
§ 71.109	Blue Federal airways.

Subpart C—VOR Federal Airways

§ 71.121	Designation.
§ 71.123	Domestic VOR Federal airways.
§ 71.125	Alaskan VOR Federal airways.
§ 71.127	Hawaiian VOR Federal airways.

Subpart D—Continental Control Area

§ 71.151	Restricted areas included.
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Subpart E—Control Areas and Control Area Extensions

§ 71.161	Designation of control areas associated with jet routes outside the continental control area.
§ 71.163	Designation of additional control areas.
§ 71.165	Designation of control areas extensions.

Subpart E—Class E Airspace

Subpart E of FAA Order 7400.9.
Subpart E of FAA Order 7400.9.
Subpart E of FAA Order 7400.9.
Subpart E of FAA Order 7400.9.
Subpart E of FAA Order 7400.9.

Subpart E—Class E Airspace

§ 71.79	Designation of VOR Federal airways.
Subpart E of FAA Order 7400.9.	
Subpart E of FAA Order 7400.9.	
Subpart E of FAA Order 7400.9.	

Subpart E—Class E Airspace

Subpart E of FAA Order 7400.9.

Subpart E—Class E Airspace

§ 71.71	Class E airspace and Subpart E of FAA Order 7400.9.
§ 71.71	Class E airspace and Subpart E of FAA Order 7400.9.
Subpart E of FAA Order 7400.9.	

Subpart H—Positive Control Areas
§ 71.193 Designation.

Subpart A—General; Class A Airspace
§ 71.33 Class A airspace areas.

Subpart I—Reporting Points
§ 71.201 Designation.
§ 71.203 Domestic low altitude reporting points.
§ 71.207 Domestic high altitude reporting points.
§ 71.209 Other domestic reporting points.
§ 71.211 Alaskan low altitude reporting points.
§ 71.213 Alaskan high altitude reporting points.
§ 71.215 Hawaiian reporting points.

Subpart H—Reporting Points
§ 71.901 Applicability.
Subpart H of FAA Order 7400.9.
Subpart H of FAA Order 7400.9.
Subpart H of FAA Order 7400.9.
Subpart H of FAA Order 7400.9.
Subpart H of FAA Order 7400.9.
Subpart H of FAA Order 7400.9.

Subpart J—Area Low Routes
§ 71.301 Designation.

Subpart E—Class E Airspace
Subpart E of FAA Order 7400.9.

Subpart K—Terminal Control Areas
§ 71.401(a) Designation.
§ 71.401(b) Terminal control areas.

Subpart B—Class B Airspace
Subpart B of FAA Order 7400.9.
Subpart B of FAA Order 7400.9.

Subpart L—Airport Radar Service Areas
§ 71.501 Designation.

Subpart C—Class C Airspace
Subpart C of FAA Order 7400.9.

Subpart M—Jet Routes and Area High Routes
§ 71.601 Applicability.
§ 71.603 Jet routes.
§ 71.605 Area routes above 18,000 feet MSL.
§ 71.607 Jet route descriptions.
§ 71.609 Area high route descriptions.

Subpart A—General; Class A Airspace
Not applicable.
Subpart A of FAA Order 7400.9.
Subpart A of FAA Order 7400.9.
Subpart A of FAA Order 7400.9.
Subpart A of FAA Order 7400.9.

Discussion of Comments

A total of 205 commenters submitted comments to Docket No. 24456 on NPRM No. 89-28. The FAA considered these comments in the adoption of this rule and changes to the proposals were made accordingly. Some comments did not specifically apply to any particular proposal addressed in NPRM

effort and each classification of airspace. A general division entitled, *Additional Comments*, addresses issues that do not affect a specific airspace classification. Each discussion includes a description of the final amendment and an explanation of the FAA's views.

Reclassification of Airspace

One hundred and forty-one comments on the proposal to reclassify U.S. airspace to meet ICAO standards were submitted. Sixty-eight supported reclassification and 69 opposed reclassification. Four commenters neither supported nor opposed the reclassification effort, but offered observations.

The 68 supporting comments include those submitted by the ATA, ATCA, and COPA. The COPA stated that on an average, approximately 60,000 general aviation aircraft cross the U.S./Canadian border each year. Some commenters stated that the proposed classifications are easier to understand than the current classifications and noted that the proposed classifications would help develop standardization. Two flight instructors commented that the proposed classifications would aid in the teaching of the airspace system to new pilots.

The 69 opposing comments include the Arizona Pilots Association, EAA, and SSA. Several comments, including EAA's, asserted that the current airspace designation names are more descriptive, and hence, easier to remember. Several comments, including one from the Arizona Pilots Association, stated that the proposal would cause confusion, while other commenters alleged that the proposal would only benefit pilots who operate internationally.

Both the SSA and the Arizona Pilots Association recommend that existing airspace nomenclature be retained and a table be included in the *Airman's Information Manual* (AIM) or Part 91 to correlate U.S. airspace designations and ICAO equivalents.

The four comments submitted that do not directly support or oppose the proposal include those from the Alaska Airmen's Association, ALPA, and AOPA. The AOPA expressed concerns about how pilots would be reeducated during the transition phase that would precede the adoption of the proposed airspace reclassification. AOPA recommended that the FAA take five steps to ensure proper pilot education: (1) convene a government, industry, and user meeting before the issuance of a final rule to consider the implications of final rule adoption; (2) ensure that all necessary funding is in place, including monies for the specific purpose of pilot education; (3) adopt a dual airspace system during the transition phase; (4) coordinate with the National Oceanic and Atmospheric Administration (NOAA) to ensure that all charts are printed in a timely manner; and (5) amend the flight review requirements to reflect explicitly the need to discuss airspace classifications. The FAA agrees that the aviation public needs to be educated in airspace reclassification. Therefore, the FAA has developed an education and transition program, which is discussed under "Education of the Aviation Community."

As proposed, the FAA will reclassify U.S. airspace in accordance with ICAO standards. Airspace areas, with the exception of special use airspace (SUA) designations, will be classified by a single alphabet character. The FAA believes that reclassification of U.S. airspace simplifies the airspace system, achieves international commonality, enhances aviation safety, and satisfies the responsibility of the United States as a member of ICAO.

Some commenters misunderstood the proposal on airspace reclassification. These commenters understood Class A airspace areas to be en route airspace and Class B, Class C, and Class D airspace areas to be terminal airspace. The recommended ICAO airspace classes are not based on whether the airspace area is designated for "en route" or "terminal" operations, but rather on other factors that include type of operation (i.e., IFR, VFR) and ATC services provided. (The table below lists the new airspace classifications, its equivalent in the existing airspace classification, and its features, which would apply to terminal and en route airspace areas.) For example, under this rule Class C airspace is designated in terminal areas. Class C airspace in another country could be designated in en route areas. However, the type of operation, ATC services provided, minimum pilot qualifications, two-way radio requirements, and VFR minimum visibility and distance from cloud requirements in that country's Class C airspace

AIRSPACE FEATURES	CLASS A AIRSPACE	CLASS B AIRSPACE	CLASS C AIRSPACE	CLASS D AIRSPACE	CLASS E AIRSPACE	CLASS G AIRSPACE
Current Airspace Equivalent	Positive Control Areas	Terminal Control Areas	Airport Radar Service Areas	Airport Traffic Areas and Control Zones	General Controlled Airspace	Uncontrolled Airspace
Operations Permitted	IFR	IFR and VFR	IFR and VFR	IFR and VFR	IFR and VFR	IFR and VFR
Entry Prerequisites	ATC clearance	ATC clearance	ATC clearance for IFR Radio contact for all	ATC clearance for IFR Radio contact for all	ATC clearance for IFR Radio contact for all IFR	None
Minimum Pilot Qualifications	Instrument rating	Private or student certificate	Student certificate	Student certificate	Student certificate	Student certificate
Two-way radio communications	Yes	Yes	Yes	Yes	Yes for IFR operations	No
VFR Minimum Visibility	Not applicable	3 statute miles	3 statute miles	3 statute miles	*3 statute miles	**1 statute mile
VFR Minimum Distance from Clouds	Not applicable	Clear of clouds	500 feet below, 1,000 feet above, and 2,000 feet horizontal	500 feet below, 1,000 feet above, and 2,000 feet horizontal	*500 feet below, 1,000 feet above, and 2,000 feet horizontal	**500 feet below, 1,000 feet above, and 2,000 feet horizontal
Aircraft Separation	All	All	IFR, SVFR, and runway operations	IFR, SVFR and runway operations	IFR, SVFR	None
Conflict Resolution	Not applicable	Not applicable	Between IFR and VFR operations	No	No	No
Traffic Advisories	Not applicable	Not applicable	Yes	Workload permitting	Workload permitting	Workload permitting
Safety Advisories	Yes	Yes	Yes	Yes	Yes	Yes

*Different visibility minimum and distance from cloud requirements exist for operations above 10,000 feet MSL.

**Different visibility minima and distance from cloud requirements exist for night operations, operations above 10,000 feet MSL, and operations below 1,200 feet AGL.

Offshore Airspace

The FAA adopts, as proposed, the NAR recommendations NAR 3-2.1.1—Offshore Airspace Nomenclature, NAR 3-2.1.2—Offshore Control Area Uniform Base, NAR 3-2.1.3—Offshore Control Area Identification, and NAR 3-2.1.4—Offshore Airspace Classification, which consider offshore airspace areas. However, NAR 3-2.1.2, which recommends a uniform base for offshore control areas of 1,200 feet above the surface unless otherwise designated, and NAR 3-2.1.3, which recommends that offshore control areas be identified with a name as opposed to a number are contingent on the FAA's further review. (More details on the review process appear later in this document under the title *Implementation of Airspace Reclassification*.) Any changes to offshore airspace areas resulting from the FAA's review will be accomplished by separate rulemaking actions. The FAA's review is being conducted in compliance with Executive

The FAA has begun to coordinate with a task group of the Interagency Air Cartographic Committee (IACC) and the National Ocean Service (NOS), which will begin to update aeronautical charts. During the transition, the FAA will update its orders, manuals, handbooks, and advisory circulars, and will provide pilot/controller education. Significant dates in the transition process appear below with additional discussion following.

AIRSPACE RECLASSIFICATION TRANSITION

<i>Tentative Date</i>	<i>Event</i>
October 15, 1992	First sectional aeronautical charts (SAC), world aeronautical charts (WAC), and terminal aeronautical charts (TAC) are published with legends that indicate both existing and future airspace classifications.
March 4, 1993	Initial charting changes are completed for the SAC and TAC.
June 24, 1993	North Pacific, Gulf of Mexico, and Caribbean planning charts are published with legends that indicate both existing and future airspace classifications.
August 19, 1993	Flight Case Planning and North Atlantic Route charts are published with legends that indicate existing and future airspace classifications.
September 16, 1993	New airspace classifications become effective. All charts begin publication with legends that indicate both the new airspace classification and the former airspace classification. All related publications are updated.
March 3, 1994	First charts are published with legends that only indicate the new airspace classifications.
August 17, 1994	All charts are published with legends that only indicate the new airspace classifications.

Coordination with a task group of the IACC and the NOS will continue throughout the transition. An anticipated modification to the symbols on aeronautical charts is the addition of a segmented magenta line to represent the controlled airspace area for airports without operating control towers that extends upward from the surface (Class E airspace). A segmented blue line (which currently depicts a control zone) will denote a Class D airspace area, the controlled airspace for airports with operating control towers that are not the primary airport of a TCA or an ARSA.

The legends in aeronautical charts will include both the existing airspace classifications and the airspace classifications to be effective September 16, 1993. For example, the solid blue line that symbolizes a TCA will be followed by "TCA (Class B)." The first charts with a dual legend will be published October 15, 1992. Commencing September 16, 1993, the legends on these charts will be reversed [e.g., a solid blue line will be followed by "Class B (TCA)"]. Between March 3 and August 17, 1994, the use of dual indication legends will be phased out.

Between October 1992 and March 1993, educational materials such as pocket guides, a video, and posters will be issued to instruct the aviation public on airspace reclassification. The FAA will begin to update the AIM and other publications, as well as FAA orders, manuals, handbooks, and advisory circulars that must be revised to include the new airspace classifications and an explanation of the transition and implementation procedures.

The transition and implementation of the Airspace Reclassification final rule also will include parallel reviews of certain current airspace designations to meet the new airspace classifications. A full discussion on this review appears later in this document under the title *Implementation of Airspace Reclassification*.

meet the criteria of Class A airspace as adopted by ICAO.

As noted earlier, the recommended ICAO airspace classes are not based on whether the airspace area is designated for "en route" or "terminal" operations. Any new Class A airspace areas would be proposed in separate rulemaking actions.

Class B Airspace

NPRM No. 89-28 proposed to reclassify TCAs as Class B airspace areas and to amend the minimum distances by which aircraft operating under VFR must remain from clouds. The current VFR minimum distance requirements of 500 feet below, 1,000 feet above, and 2,000 feet horizontal from clouds will be amended to require that the pilot must remain clear of clouds.

One comment supports and two comments specifically oppose the proposed reclassification. Twelve comments on the proposal to amend minimum distance from clouds for VFR operations in Class B airspace areas were received. Eight of these comments support and four oppose the proposal.

The comments submitted in support of the proposal to reclassify TCAs as Class B airspace areas and to modify the minimum distances from cloud for VFR operations include those from AOPA, the Alaska Airmen's Association, EAA, and SSA. AOPA stated that the proposal "is a positive step in improvement of VFR traffic flow within" Class B airspace areas.

A commenter in support of reclassification stated that some of the areas to be classified as Class B airspace areas could be redesignated as Class C airspace areas.

The four comments submitted in opposition to the proposed amendment on distance from cloud requirements for VFR operations include a comment from ALPA. Some commenters stated that the proposal to modify the minimum distance from clouds for VFR flight in Class B airspace areas reduces the existing margin of safety. ALPA further stated that the ability of a pilot to maintain visual contact with other aircraft is reduced if aircraft operate in close proximity to clouds. One commenter stated that the proposals do not answer the need for clear radio failure procedures in Class B airspace areas. Another commenter stated that Class B airspace areas are actually divided into two types of Class B airspace: one in which a private pilot certificate is required and one in which, at a minimum, only a student pilot certificate is required.

This rulemaking reclassifies existing airspace areas with the equivalent recommended ICAO airspace area. It does not redesignate existing airspace areas. For example, the redesignation of a Class B airspace area (TCA) to a Class C airspace area (ARSA) is beyond the scope of this rulemaking. The FAA believes that the elimination of terminal areas designated as Class B airspace areas would create a substantial adverse impact on the safe and efficient control of air traffic in those high volume terminal areas. Class B airspace areas, like the TCAs that preceded them, provide more efficient control in terminal areas where there is a large volume of air traffic and where a high percentage of that traffic is large turbine-powered aircraft. Additionally, on July 25, 1991, the FAA revised FAA Order 7110.65, *Air Traffic Control*, by adopting specific separation standards for operations under VFR in existing TCAs. These standards require air traffic controllers to separate aircraft operating under VFR in existing TCAs from other aircraft operating under VFR and IFR.

As stated in NPRM No. 89-28 in response to NAR 1-7.2.9—Recommended VFR Minima, the FAA views the relaxation of the distance from cloud requirements for VFR operations as a modification that would enhance rather than reduce safety. Under the existing regulations, a pilot operating an aircraft under VFR in a TCA (Class B airspace) is provided with ATC services and is subject to ATC clearances and instructions. For the pilot operating under VFR to remain specific distances from clouds, the pilot must alter course or assigned heading/route, which is a disruption to traffic flow and could be a compromise to safety. The amendment will increase safety for pilots operating under VFR and ATC by permitting these pilots to remain clear of clouds in Class B airspace areas, but not requiring them to remain a specific distance from clouds. However, if an ATC instruction to a pilot operating an aircraft under

The amendment to reclassify TCAs as Class B airspace areas does not modify the current operating rules for communications. Lost communication requirements are addressed in paragraph 470, Two-way Radio Communications Failure, of the AIM and are not within the scope of the rulemaking.

The FAA accepted NAR 1-7.3.3—Pilot Requirements for Operations in a TCA, under the provisions of the existing requirements; hence, the reclassification of TCAs as Class B airspace areas meets existing regulations on minimum airman certificate levels. Section 61.95 of the FAR, which lists student pilot requirements for operations in a TCA (Class B airspace), is revised to meet the new airspace classification. Solo student pilot activity is, under both the existing regulations and this final rule, prohibited at certain airports.

Class C Airspace

Three comments were submitted on the reclassification of ARSAs as Class C airspace areas. None of the comments specifically support or oppose the reclassification. All of the comments, including one from EAA, addressed additional modifications.

Two commenters noted that the proposal for VFR operations in Class B airspace areas to remain clear of clouds could be applied to Class C airspace areas.

In its comment, EAA opposed any increase in the size of Class C airspace areas. Other recommendations by commenters included the need for clear radio failure procedures and the need for designated areas that do not require communications with ATC when the pilot desires to use an uncontrolled airport within Class C airspace areas.

As proposed, the FAA will reclassify ARSAs as Class C airspace areas. No other modifications to Class C airspace areas or changes in operating rules were proposed. An ARSA that currently operates on a part-time basis is classified as Class C part-time and Class D or Class E at other times.

Aircraft operating under VFR in Class C airspace areas operate under less stringent requirements than aircraft operating under VFR in Class B airspace areas and are not provided the same separation by ATC. Therefore, the relaxation of the VFR distance from cloud requirements in Class C airspace areas to remain clear of clouds would not be in accordance with safety precautions. As noted earlier, lost communication procedures are addressed in paragraph 470, Two-way Radio Communications Failure, of the AIM. Since Class C airspace areas often have a high number of aircraft that operate under IFR, a relaxation of existing communications requirements would not be in the interest of safety. Any modifications to the dimensions or operating requirements for Class C airspace areas are outside the scope of this rulemaking.

Class D Airspace

NPRM No. 89-28 proposed to reclassify control zones for airports with operating control towers and airport traffic areas, not associated with a TCA or an ARSA, as Class D airspace areas. In addition, NPRM No. 89-28 proposed to: (1) raise the ceiling to up to, and including, 4,000 feet from the surface of the airport; (2) require aircraft in Class D airspace areas to establish two-way radio communications with ATC; and (3) convert the lateral unit of measurement from statute miles to nautical miles.

One hundred and forty comments concerning the proposal to establish the ceiling of the Class D airspace areas at 4,000 feet above the surface were submitted. All of the comments opposed the proposal.

Of the 83 comments regarding the proposal to require pilots who operate in Class D airspace areas to establish two-way radio communications with ATC, two supported the proposal and 80 opposed it. One comment neither supported nor opposed the proposals.

One hundred and forty-three comments related to the proposal to convert the lateral unit of measurement of Class D airspace areas from statute to nautical miles were submitted. Most interpreted the proposal

10,000 feet MSL. ATCA stated that the proposal for two-way radio communications with ATC "creates a potentially dangerous practice and is long overdue." Another commenter suggested that a corridor could be provided in Class D airspace areas for operations at satellite airports without operating control towers.

The 140 commenters that opposed the proposed ceiling of 4,000 feet above the surface included AOPA, the Alaska Airmen's Association, the Arizona Pilots Association, EAA, the Ohio Department of Transportation, and SSA. These same organizations are represented in the 131 comments that opposed the proposed conversion from statute to nautical miles and the 80 comments that oppose the proposed two-way radio communications requirements with ATC.

Several comments, including one from EAA, were submitted on the effects of the proposed ceiling modification and communications requirements on operations under SFAR No. 51-1—Special Flight Rules in the Vicinity of Los Angeles International Airport. According to the comments, the proposal would raise the ceiling of the airport traffic areas at Santa Monica and Hawthorne Airports into the Special Flight Rules Area. The commenters also stated that the proposed two-way radio communication requirements with ATC may not allow aircraft, especially those with one radio, to listen to an advisory frequency.

Some commenters, including SSA, stated that airport traffic areas (Class D airspace) could be depicted on aeronautical charts. Several commenters, including AOPA, the Alaska Airmen's Association, EAA, and the Ohio Department of Transportation stated that the proposals would increase air traffic controller workload. Some comments, including one from AOPA, stated that the proposal would increase pilot workload or that no safety benefit exists for the proposed modifications.

Several commenters, including AOPA and EAA, requested that the ceiling of Class D airspace areas be lowered to 2,000 feet or 2,500 feet above the surface. The commenters stated that the lower altitudes are adequate for the arrival and departure of aircraft. Other commenters, including the Alaska Airmen's Association and SSA, recommended retaining the current ceiling of 3,000 feet above the surface.

Commenters stated that the proposals for modifying the size of airspace and for requiring two-way radio communications with ATC would be a burden to aircraft that fly at low altitudes, and that some aircraft would need to fly a minimum of 5,500 feet MSL as opposed to 3,500 feet MSL. Some commenters stated that the proposal would burden pilots of airplanes that do not have radios. One commenter noted that pilots who fly older aircraft with no radios or navigational aids do not pose a threat to commercial aviation.

Several comments, including those submitted by the AOPA and the Alaska Airmen's Association, stated that the proposal for two-way radio communications with ATC would not permit aircraft to listen to the common traffic advisory frequency (CTAF) of satellite airports. Additional comments, including those submitted by the AOPA and EAA, noted that air traffic controllers in control towers cannot provide effective traffic advisories for satellite airports. Some commenters, including EAA and the Ohio Department of Transportation, stated that the proposed two-way radio communication requirements with ATC are not necessary because operations at satellite airports usually do not interfere with airports with operating control towers. Another commenter noted that a pilot who desires to use a satellite airport and needs to fly near an airport with an operating control tower would need to notify the local ATC facility.

Commenters, including the Arizona Pilots Association and EAA, recommended that the lateral unit of measurement of Class D airspace areas be designated at 4 nautical miles.

As proposed, control zones for airports with operating control towers and airport traffic areas that are not associated with a TCA or an ARSA are reclassified as Class D airspace areas. After considering public comment and re-examining technical criteria, the FAA has determined that: (1) the ceiling of a Class D airspace area (designated for an airport) will normally be designated at 2,500 feet above the surface of the airport converted to mean sea level (MSL), and rounded to the nearest 100 foot increment; (2) two-way radio communications with ATC will be required; and (3) the lateral dimensions will be expressed in nautical miles rounded up to the nearest tenth of a mile. The actual lateral and

Vertical Limit of Class D Airspace Areas

A goal of airspace reclassification is to enhance safety. The FAA is of the opinion that the existing airspace designations of an ARSA, which has a ceiling of "up to and including" 4,000 feet above the surface, and an airport traffic area, which has a ceiling of "up to, but not including," 3,000 feet above the surface, has caused confusion, which does not enhance safety. To promote uniformity, the FAA in NPRM No. 89-28 proposed that the ceiling of Class C, Class D, and Class E airspace areas that extend upward from the surface be established at "up to, and including" 4,000 feet above the surface. Many of the comments on this proposal were opposed to this modification. As previously stated, the FAA has determined that the ceiling of Class D airspace areas will normally be designated at up to, and including, 2,500 feet above the surface of the airport expressed in MSL. To further enhance uniformity, the ceiling of Class E airspace areas that extend upward from the surface normally will also have a ceiling established at up to, and including, 2,500 feet above the surface of the airport expressed in MSL. A ceiling of 2,500 feet above the surface will provide adequate vertical airspace to protect traffic patterns. However, the FAA emphasizes that the ceiling of a Class D or a Class E airspace area will reflect the conditions of the particular airspace area. For example, if local conditions warrant, the ceiling could be designated at more than 2,500 feet above the surface (e.g., 2,700 or 3,000 feet above the surface). Conversely, some airports with limited volume of nonturbine-powered aircraft may have a lower vertical limit.

The decision to use 2,500 feet above the surface is based on recent FAA analysis of vertical airspace necessary to protect traffic patterns and a review of public comment to lower the ceiling of an airport traffic area. The FAA's analysis demonstrates that the 2000-foot vertical limit is insufficient since it often does not protect traffic patterns for high performance aircraft.

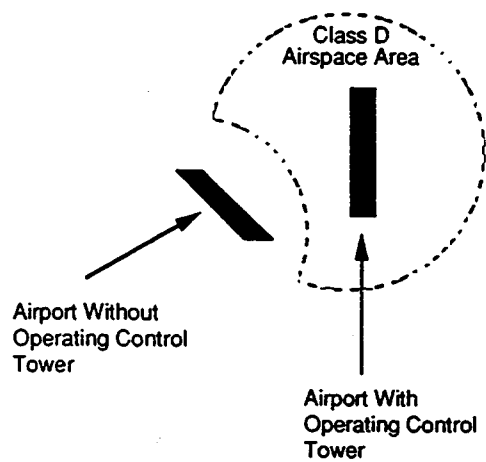
Two-Way Radio Communications in and Lateral Dimensions of Class D Airspace Areas

The FAA has determined that in order to meet safety standards, two-way radio communications with ATC must be established in Class D airspace areas. Task Group 1-2.3, which recommended NAR 1-2.3.2—Two-Way Radio Requirements in Airport Traffic Areas, stated that "pilots have been issued violations, or critical injuries have occurred because pilots were not in compliance with the two-way radio communications requirements."

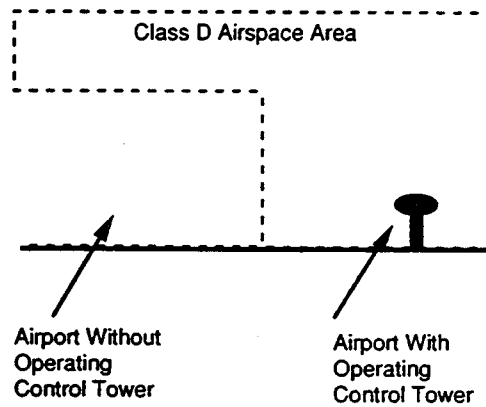
The FAA also has determined that the lateral distance of Class D airspace areas will be based on the instrument procedures for which the controlled airspace is established. Therefore, the dimensions may not be in a circular shape that is similar to the current airport traffic areas or control zones.

Many commenters stated that the communications requirements associated with operations at satellite airports within Class D airspace areas would prevent them from using CTAF procedures. The FAA generally agrees with these comments; consequently, the FAA will individually review control zones and associated transition areas that are not associated with the primary airport of a TCA or an ARSA. The review of the designation of Class D airspace areas will be conducted to determine the necessary size of the area and will exclude satellite airports to the maximum extent practicable and consistent with safety. For example, a satellite airport without an operating control tower might have a Class E airspace area carved out of a Class D airspace area, or a Class E airspace area might be placed under a shelf of a Class D airspace area. (See Figure 1.) In another example, the portions of an existing control zone that extend beyond the existing limits of an airport traffic area (extension used for instrument approaches) may be designated only by using the airspace necessary under the terminal instrument procedures (TERPs) criteria. (See Figure 1.) When a satellite airport is excluded, a pilot who is operating an aircraft in the immediate vicinity of that satellite airport and who does not otherwise penetrate airspace where two-way radio communications with ATC are required will be free to communicate on the CTAF of that satellite airport.

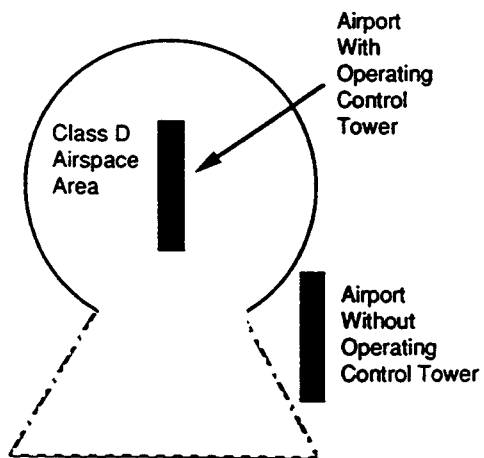
Cutout Method



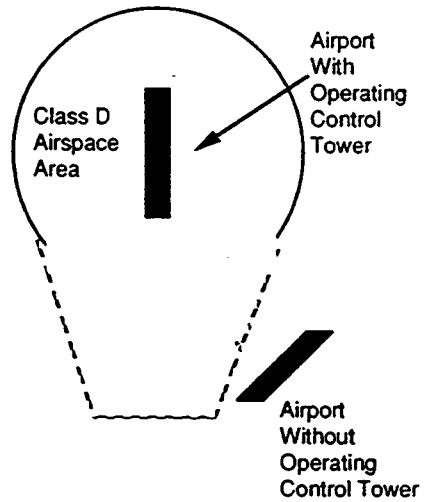
Shelf Method



TERPS' Trapezoid Going Toward the NAVAID



TERPS' Trapezoid Going Away from the NAVAID



towers, transition areas, and area low routes. The five comments submitted on this proposal neither supported nor opposed the proposal, but offered suggestions.

One commenter noted that the current names are descriptions of how the airspace area is to be used (i.e., transition areas, airways) and that under the proposal, airways would still be necessary. The SSA recommended the continued use of the term "control zone" for airspace extending upward from the surface that is independent of Class B, Class C, or Class D airspace areas. They also recommended that control zones should extend to the floor of overlying controlled airspace. One commenter recommended that the floor of Class E airspace areas that are now 1,200 feet above ground level (AGL) be raised to 1,500 or 2,200 feet AGL and noted that the floor of Class E airspace areas should not be below the minimum en route IFR altitude (MEA) in mountainous regions.

The FAA will adopt the classification of Class E airspace areas as proposed. This classification will not eliminate the requirement for Federal airways, which are specified in Part 71. However, this classification will eliminate the designation of control zones. Control zones for airports without operating control towers are classified as Class E airspace areas designated for an airport that extend upward from the surface.

The FAA believes that the reclassification of control zones for airports without operating control towers as Class E airspace areas will not cause confusion. As noted earlier, such airspace areas will be depicted on visual aeronautical charts by a segmented magenta line. Under existing regulations, a control zone usually has a 5-statute mile radius and ascends to the base of the Continental Control Area. The FAA's review process, using the revised criteria in FAA Order 7400.2C, will look at the dimensions of each control zone and associated transition areas. Each review will include a review of instrument approach procedures, as well as local terrain to determine the actual airspace needed to contain IFR operations.

The floor of Class E airspace areas, which do not extend upward from the surface, will remain the same as existing airspace areas (e.g., 700 feet AGL, 1,200 feet AGL, 1,500 feet AGL, 14,500 feet MSL). Any modifications to the floor of Class E airspace areas are beyond the scope of this rulemaking.

Class G Airspace

NPRM No. 89-28 proposed to reclassify airspace that is not otherwise designated as the Continental Control Area, a control area, a control zone, a terminal control area, a transition area, or SUA as Class G airspace areas. Of the six comments submitted, four comments opposed the proposal and two offered suggestions.

The four opposing comments, including EAA's comment, understood the Class G airspace areas to be airspace below 700 feet AGL.

The two comments that neither supported nor opposed the proposal included the comment from the ATA. The ATA recommended that Class G airspace areas be designated as Class F airspace areas.

The FAA has determined that all navigable airspace areas not otherwise designated as Class A, Class B, Class C, Class D, or Class E airspace areas or SUA are classified as Class G airspace areas. Since the proposal to replace the Continental Control Area with the U.S. control area in NPRM No. 88-2 was not adopted, the vertical limit of Class G airspace areas will vary (e.g., 700 feet AGL, 1,200 feet AGL, 1,500 feet AGL, 14,500 feet MSL). In addition, the flight visibility and distance from cloud requirements for operations under VFR proposed in NPRM No. 89-28 are modified to remain consistent with the existing requirements in §§ 91.155 and 103.23.

Class F airspace is omitted from the U.S. airspace classifications because this airspace, as adopted by ICAO, does not have a U.S. equivalent. Class G airspace, as adopted by ICAO, is the equivalent of U.S. uncontrolled airspace.

designations could be specified without following rulemaking procedures where required. Further review of airspace areas will be proposed in future FAA rulemaking actions.

Three commenters, including the Alaska Airmen's Association and SSA, noted that NPRM No. 89-28 proposed to define controlled airspace in FAR § 1.1 as airspace in which "all aircraft may be subject to ATC" rather than airspace in which "some or all aircraft may be subject to ATC." According to one commenter, because aircraft operating under VFR are not always subject to ATC in controlled airspace, especially Class E airspace, the current definition is more accurate.

The proposed definition of controlled airspace is adopted in essence but it has been modified to correspond with ICAO's definition of a controlled airspace. Subsequent to the publication of NPRM No. 89-28, ICAO modified its definition of controlled airspace to read as follows: "*Controlled airspace*. An airspace of defined dimensions within which air traffic control service is provided to IFR flights and to VFR flights in accordance with the airspace classification. Note—Controlled airspace is a generic term which covers ATS [air traffic services] in airspace Classes A, B, C, D, and E." The proposed FAA definition in NPRM No. 89-28 read: "*Controlled airspace* means airspace designated as Class A, Class B, Class C, Class D, or Class E airspace in Part 71 of this chapter and within which all aircraft may be subject to air traffic control."

While the commenter is essentially correct that all aircraft are not always subject to air traffic control, any aircraft may be subject to ATC if the pilot operates under IFR or if the pilot requests and receives air traffic services. The FAA believes that misunderstandings would be minimized with the adoption of the ICAO definition. The ICAO definition and the proposed definition are essentially synonymous; however, the FAA is confident the adoption of the ICAO definition is consistent with the objectives of airspace reclassification and that it is beneficial to have a common international definition of controlled airspace.

Four commenters, including EAA and SSA, noted that NPRM No. 89-28 only permits Special VFR operations for the purposes of departing from or arriving at an airport. The commenters stated that such a restriction of Special VFR operations would affect pipeline patrol, aerial photography, law enforcement, agricultural, and other special types of operations. EAA also stated that the proposed limitation of 4,000 feet above the surface for Special VFR operations could prevent pilots from climbing to the top of a haze layer.

The FAA will continue to permit Special VFR operations for through flights as well as flights for arrival or departure. Because control zones will be eliminated under Airspace Reclassification, Special VFR operations are only permitted within the ceiling and lateral boundaries of the surface areas of the Class B, Class C, Class D, or Class E airspace designated for an airport. Because the proposal for a uniform ceiling for Class C, Class D, and Class E airspace areas at 4,000 feet above the surface is not adopted, the boundaries of the airspace area in which Special VFR operations are permitted will vary. For example, if a Class C airspace area has a ceiling designated at 4,500 feet MSL and a surface area designated within a 5-nautical mile radius from the airport, Special VFR operations are permitted within that 5-nautical mile radius up to and including 4,500 feet MSL.

One commenter, a flight instructor with a petition signed by additional flight instructors, stated that the language in the proposal on aerobatic flight is vague and could be interpreted to restrict aerobatic operations within existing transition areas and other less crowded airspace areas. The commenter was concerned that the proposed § 91.71(c) could affect spin training at flight schools.

Under this amendment, the term "control zone" will be eliminated. However, the FAA desires to continue restrictions that currently exist in the FAR on operations within control zones. These restrictions will now apply within the lateral boundaries of the surface areas of the Class B, Class C, Class D, or Class E airspace designated for an airport. For example, if a Class E airspace area is designated to extend upward from the surface with a 4.4-nautical mile radius from the airport and a ceiling of 2,600 feet MSL, aerobatic flight will not be permitted below 2,600 feet MSL within a 4.4-nautical mile radius of the airport.

7400.2C and the reviews occur before the effective date of the Airspace Reclassification final rule, the revised criteria are written in existing airspace terminology. Examples of the revised criteria include: (1) converting the lateral unit of measurement from statute miles to nautical miles; (2) conforming existing control zones to be congruent with the lateral dimensions of the surface areas of existing TCAs or ARSAs; (3) redesignating control zones to contain intended operations (not necessarily in a circular configuration); (4) redesignating the vertical limit of control zones from the surface of the earth to a specified altitude (but not to the base of the Continental Control Area); (5) establishing a policy to exclude satellite airports from control zones to the maximum extent practicable, consistent with instrument procedures and safety; and (6) replacing control zone departure extensions with transition areas.

The FAA anticipates that many control zones and associated transition areas would require minor modification. For example, a control zone could be integrated with the associated TCA or ARSA (Class B or Class C airspace area) or a control zone could become either a Class D airspace area or a Class E airspace area that extends upward from the surface.

The reviews will include control zones where a significant change in the current airspace structure is expected. For example, a control zone that extends beyond the perimeter of the associated TCA or ARSA and could require modification of the associated TCA or ARSA (Class B or Class C airspace area). The reviews will also include transition areas not associated with control zones and offshore airspace. Proposed changes that result from these reviews will be promulgated using normal rulemaking procedures.

The reviews could also result in the expansion of controlled airspace. These actions could affect airspace areas associated with non-Federal control towers. Any expansion of controlled airspace will be proposed in future NPRMs.

All necessary changes to the airspace structures are scheduled to be completed by September 16, 1993, the effective date of the Airspace Reclassification final rule.

Changes to the NPRM

This final rule includes several nonsubstantive editorial changes made to NPRM No. 89-28. Changes are also included in this final rule to certain FAR sections that were not included in NPRM No. 89-28 but require changes in terminology to be consistent with the amendments. Three additional subparts in Part 93 are deleted because the rules will not be necessary under airspace reclassification. The sections and subparts, with an explanation of the changes made to them, follow.

SFAR 51-1: The reference to "Terminal Control Area (TCA)" in Section 1 is replaced with "Class B airspace area." The reference to § 91.105(a) in Section 2(a) is replaced with § 91.155(a). The reference to § 91.24(b) in Section 2(b) is replaced with § 91.215(b). The phrase "meet the equipment requirements" in Section 2(b) is replaced with "be equipped as." The reference to § 91.90(a) and § 91.90 in Section 3 is replaced with § 91.131(a) and § 91.131.

SFAR 60: The references to "terminal control area" and "airport radar service area" in Section 3a are replaced with "Class B airspace area" and "Class C airspace area." The phrase "terminal and en route airspace" in Section 3a is replaced with "class of controlled airspace."

SFAR 62: The two references to "terminal control area" in Section 1(a) are replaced with "Class B airspace area." The references to the "Tri-Area TCA" in Section 2(24) and (25) are replaced with "Tri-Area Class B airspace area."

§ 45.22(a)(3)(i): The phrase "the designated airport control zone of the takeoff airport, or within 5 miles of that airport if it has no designated control zone" is replaced with "the lateral boundaries of the surface areas of Class B, Class C, Class D, or Class E airspace designated for the takeoff airport, or within 4.4 nautical miles of that airport if it is within Class G airspace."

§ 61.95: All references to "terminal control area" in the title and paragraphs (a), (a)(1), (a)(2), (a)(3), and (b) are replaced with "Class B airspace" or "Class B airspace area."

§ 91.905: The references to §§ 91.127, 91.129, 91.130, 91.131, and 91.135 are replaced with the titles to become effective September 16, 1993, and a reference is added to § 91.126.

§ 93.1(b): The reference to § 93.113, which is to be deleted as of September 16, 1993, is deleted.

Subpart N, Part 93: This subpart on the airport traffic area at the Sabre U.S. Army Heliport (Tennessee) is removed and reserved. On September 16, 1993, this airspace will become a Class D airspace area.

Subpart O, Part 93: This subpart on the Navy airport traffic area at Jacksonville, Florida, is removed and reserved. On September 16, 1993, this airspace will become three separate but adjoining Class D airspace areas.

Subpart R, Part 93: This subpart on the Special Air Traffic Rules at El Toro, California, is removed and reserved. On September 16, 1993, this airspace will become a part of the El Toro Class C airspace area.

§ 135.205(b): The reference to "uncontrolled airspace" is replaced with "Class G airspace." The reference to "control zones" is replaced with "within the lateral boundaries of the surface areas of Class B, Class C, Class D, or Class E airspace designated for an airport."

§ 139.323(a): The reference to "terminal control area" is replaced with "Class B airspace area."

§ 171.9(e)(1) and (e)(2): All references to "air traffic control areas" are replaced with "controlled airspace."

§ 171.29(d)(1) and (d)(2): All references to "air traffic control areas" are replaced with "controlled airspace."

§ 171.159(e)(1) and (e)(2): Both references to "air traffic control areas" are replaced with "controlled airspace." The reference to "air traffic control zones or areas" is replaced with "controlled airspace."

§ 171.209(d): Both references to "air traffic control areas" are replaced with "controlled airspace." The reference to "air traffic control zones or areas" is replaced with "controlled airspace."

§ 171.323(i): The reference to "air traffic control areas" is replaced with "controlled airspace." The reference to "air traffic control zones or areas" is replaced with "controlled airspace."

Obsolete Dates

Obsolete dates have been removed from §§ 91.215(b)(2), (b)(4), and (b)(5)(ii). Section 91.215(b)(5)(i)(A) is obsolete and is deleted. Section 91.215(b)(5)(i)(B) is incorporated into existing § 91.215(b)(5)(i).

Regulatory Evaluation Summary

This section summarizes the full regulatory evaluation prepared by the FAA that provides more detailed estimates of the economic consequences of this final rule regulatory action. This summary and the full evaluation quantify, to the extent practicable, estimated costs to the private sector, consumers, Federal, State and local governments, as well as anticipated benefits.

Executive Order 12291, dated February 17, 1981, directs Federal agencies to promulgate new regulations or modify existing regulations only if potential benefits to society for each regulatory change outweigh potential costs. The order also requires the preparation of a Regulatory Impact Analysis of all major rules except those responding to emergency situations or other narrowly defined exigencies. A major rule is one that is likely to result in an annual effect on the economy of \$100 million or more, a major increase in consumer costs, a significant adverse effect on competition, or one that is highly controversial.

The FAA has determined that this rule is not major as defined in the executive order. Therefore, a full regulatory *analysis*, that includes the identification and evaluation of cost reducing alternatives

This rule is intended to simplify airspace designations, achieve international commonality of airspace designations, standardize equipment requirements and associate appropriate pilot certification requirements as well as certain other requirements associated with each proposed airspace designation. These changes are based primarily on recommendations from a National Airspace Review (NAR) task group and will ultimately allow for increased safety and efficiency in the U.S. airspace and air traffic control system.

Costs

The FAA estimates the total incremental cost that will accrue from the implementation of this final rule to be \$1.9 million (discounted, in 1990 dollars). Virtually all cost, which is expected to be incurred by the FAA, will accrue from revisions to aeronautical charts, re-education of the pilot community, and revision of air traffic controller training courses. Each one of these factors is briefly discussed below:

1. Revisions to Aeronautical Charts

A significant cost impact associated with this rule will result from the requirement to change aeronautical charts. These modifications will be incorporated during the regular updating and printing of the charts. Therefore, all costs associated with printing aeronautical charts are assumed to be normal costs of doing business. However, because of dimension and symbol changes that will be needed, the plates used to print the charts will need to be changed, and this will affect most of the aeronautical charts printed.

The total cost of revisions to all charts is estimated by the National Ocean Service based on the summation of the costs of revising each class of the airspace. The total discounted cost is estimated to be \$1.2 million.

2. Revision of Air Traffic Training Courses

Manuals, textbooks, and other training materials used to educate FAA controllers will need to be updated to reflect the airspace reclassification. According to the FAA Aeronautical Center in Oklahoma City, lesson plans, visual aids, handouts, laboratory exercises, and tests will need to be revised.

The cost of these revisions is determined by multiplying the total revision time by the hourly cost of the course manager making the changes. The course managers are level GS-14 (step 5) employees with an average loaded annual salary of \$72,000. Assuming 2,080 hours per year, their average loaded hourly salary is \$35. The cost of the course changes is estimated to be \$43,000 (discounted). An additional cost of \$10,000 (discounted) will accrue as the result of a one-week seminar and associated travel. This seminar will be necessary to educate course managers about the airspace reclassification. The total cost that will accrue from this factor is estimated to be \$43,000 (discounted).

3. Re-education of the Pilot Community

Pilots who are presently certificated to operate in the U.S. airspace will need to become familiar with the airspace reclassification as the result of this rule. This task will be accomplished through a variety of publications, videotapes, and pilot meetings.

The FAA is considering the production of a videotape that will be provided as a public service to industry associations, such as AOPA, ALPA, and NBAA, to inform them of the airspace reclassification. This videotape could be shown at various association meetings to help re-educate the pilot community. The FAA's Office of Public Affairs estimates that the film will be 20 to 25 minutes long and could be produced at a cost of \$75,000 (discounted).

The FAA is also considering the publication of an advisory circular (AC) which will document the new airspace classifications. The AC will be mailed to each registered pilot. It is estimated that one man-week at a level GS-14 (Step 5) will be required to draft the AC and obtain approval in the sponsoring organization, and one GS-14 man-week will be required to obtain FAA approval of the AC. The cost associated with 2 man-weeks at a level GS-14 needed to prepare the AC is estimated

Benefits

This final rule is expected to generate benefits in the form of enhanced safety and operational efficiency to the aviation community. These benefits are briefly described, in qualitative terms, below:

1. Increased Safety Due to Better Understanding and Simplification

The FAA believes that the simplified classification in this rule will reduce airspace complexity and thereby enhance safety. This airspace reclassification mirrors the new ICAO airspace designations, except there will not be a U.S. Class F airspace.

This rule also will increase safety in the U.S. since foreign pilots operating aircraft in U.S. airspace will be familiar with the airspace designations and classification system.

Another simplification which is expected to help increase airspace safety is the change that will correlate the class of controlled airspace currently termed a control zone to the airspace of the surrounding area. Currently, several types of airspace are designated around an airport, which makes it difficult for pilots and controllers to determine how the areas are classified and which requirements apply. After the reclassification, the terminology will be more explanatory.

The conversion of statute mile designations to nautical mile designations is intended to further simplify operations. Since the instruments on-board the aircraft are calibrated in nautical miles and aviation charts have representations in nautical miles, this change will eliminate the need for pilots to convert between nautical and statute miles. This simplification will help pilots and controllers to be better able to understand the airspace designations in Part 71.

2. Reduced Minimum Distance from Cloud Requirement

This airspace reclassification will designate TCAs as Class B airspace areas. The VFR minimum distance from clouds requirement in this airspace will also change. Currently this distance is 500 feet below, 1,000 feet above, and 2,000 feet horizontal. In Class B airspace, the rule will require that the minimum distance from clouds be "clear of clouds." This change will afford VFR traffic increased opportunities to fly in Class B airspace in more types of weather than they currently have in a TCA. Furthermore, there will be reduced requests for deviation from ATC instruction to maintain cloud clearance. This action will not threaten safety since all aircraft operating in Class B airspace are provided with the appropriate separation.

3. Operation Of Ultralight Vehicles

This rule incorporates NAR task group 1-7.2 recommendations and changes Part 103 to correspond to the new airspace designations found in Part 71. There will be no decrease in safety because there is not change in the type of airspace in which ultralights are permitted to fly or operate.

Conclusion

Despite the fact that benefits are *not* quantifiable in monetary terms, the FAA, nonetheless, concludes that the benefits of this rule are expected to outweigh its expected costs.

International Trade Impact Assessment

Since this rule will not affect airspace outside the United States for which the United States is responsible, it is not expected to impose any new operating requirement in that airspace. As such, it will have no affect on the sale of foreign aviation products or services in the United States, nor will it affect the sale of U. S. products or services in foreign countries.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. The RFA requires agencies

FEDERALISM IMPLICATIONS

The amendments in this final rule will not have substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that these amendments will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

PAPERWORK REDUCTION ACT

In accordance with the Paperwork Reduction Act of 1980 (Pub L. 96-511), there are no requirements for information collection associated with this rule.

CONCLUSION

For reasons discussed in the preamble, and based on the findings in the Regulatory Evaluation Determination and the International Trade Impact Analysis, the FAA has determined that these amendments do not qualify as a major rule under Executive Order 12291. In addition, the FAA certifies that these amendments will not have a significant economic effect on a substantial number of small business entities under the criteria of the Regulatory Flexibility Act. These amendments are considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A regulatory evaluation of these amendments, including a Regulatory Flexibility Determination and Trade Impact Analysis, has been placed in its entirety in the regulatory docket. A copy may be obtained by contacting the person identified under *"FOR FURTHER INFORMATION CONTACT."*

CROSS REFERENCE

To identify where existing regulations for Part 75 are relocated in existing Part 71, the following cross reference lists are provided:

CROSS REFERENCE TABLE

Old Section	New Section
75.1	71.601
75.11	71.603
75.13	71.605
75.17	Deleted
75.100	71.607
75.400	71.609
New Section	Old Section
71.601	75.1
71.603	75.11
71.605	75.13
71.607	75.100
71.609	75.400

To identify where existing regulations for Part 71 are relocated in the rule to be effective September 16, 1993, or if the regulations will be relocated in FAA Order 7400.9, the following cross reference lists are provided:

71.9	Deleted
71.11	71.71
71.12	71.41
71.13	71.71
71.14	71.51
71.15	71.31
71.17	71.5
71.19	71.7
71.101	Subpart E of FAA Order 7400.9
71.103	Subpart E of FAA Order 7400.9
71.105	Subpart E of FAA Order 7400.9
71.107	Subpart E of FAA Order 7400.9
71.109	Subpart E of FAA Order 7400.9
71.121	71.79
71.123	Subpart E of FAA Order 7400.9
71.125	Subpart E of FAA Order 7400.9
71.127	Subpart E of FAA Order 7400.9
71.151	Subpart E of FAA Order 7400.9
71.161	71.71 and Subpart E of FAA Order 7400.9
71.163	71.71 and Subpart E of FAA Order 7400.9
71.165	Subpart E of FAA Order 7400.9
71.171	Subpart D or E of FAA Order 7400.9
71.181	Subpart E of FAA Order 7400.9
71.193	71.33
71.201	71.901
71.203	Subpart H of FAA Order 7400.9
71.207	Subpart H of FAA Order 7400.9
71.209	Subpart H of FAA Order 7400.9
71.211	Subpart H of FAA Order 7400.9
71.213	Subpart H of FAA Order 7400.9
71.215	Subpart H of FAA Order 7400.9
71.301	Subpart E of FAA Order 7400.9
71.401	Subpart B of FAA Order 7400.9
71.501	Subpart C of FAA Order 7400.9
71.601	Deleted
71.603	Subpart A of FAA Order 7400.9
71.605	Subpart A of FAA Order 7400.9
71.607	Subpart A of FAA Order 7400.9
71.609	Subpart A of FAA Order 7400.9

New Section

71.1
71.5
71.7
71.9
71.31
71.33
71.41
71.51
71.61
71.71
71.73
71.75
71.77
71.79
71.901

Old Section

71.1
71.17
71.19
New
71.15
71.193
71.12
71.14
New
71.9, 71.13, 71.161, 71.163
71.3
71.5
71.6
71.121
71.201

Subpart D or Subpart E	71.171
Subpart E	71.101
Subpart E	71.103
Subpart E	71.105
Subpart E	71.107
Subpart E	71.109
Subpart E	71.123
Subpart E	71.125
Subpart E	71.127
Subpart E	71.151
Subpart E	71.161
Subpart E	71.163
Subpart E	71.165
Subpart E	71.181
Subpart E	71.301
Subpart H	71.203
Subpart H	71.207
Subpart H	71.209
Subpart H	71.211
Subpart H	71.213
Subpart H	71.215

The Rule

In consideration of the foregoing, the Federal Aviation Administration amends SFAR 51-1, SFAR 60, SFAR 62, Parts 1, 11, 45, 61, 65, 71, 75, 91, 93, 101, 103, 105, 121, 127, 135, 137, 139, and 171 of Federal Aviation Regulations (14 CFR Parts 1, 11, 45, 61, 65, 71, 75, 91, 93, 101, 103, 105, 121, 127, 135, 137, 139, and 171).

The authority for Part 139 is revised to read as follows:

Authority: 49 U.S.C. app. 1354(a) and 1432; 49 U.S.C. 106(g).

EFFECTIVE DATE: This final rule is effective April 24, 1992. Comments must be received on or before July 23, 1992.

ADDRESSES: Comments on this final rule should be sent, in triplicate, to the Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Docket No. 24812, 800 Independence Avenue, SW., Room 915G, Washington, DC 20591. Comments may be inspected in Room 915G between 8:30 a.m. and 5:00 p.m., weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. William DeLoach, Safety and Compliance Division (AAS-300), Office of Airport Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-8723.

SUPPLEMENTARY INFORMATION:

Comments Invited

This final rule is being issued without prior notice and prior public comment. However, in accordance with the regulatory policies and procedures of the Department of Transportation, an opportunity for public comment on the final rule is provided. Interested persons are invited to submit comments in triplicate to the address listed under the caption "ADDRESSES" above. All comments will be available for examination by interested persons in the rules docket. This amendment may be changed in response to comments received.

Commenters who want the FAA to acknowledge receipt of comments submitted on this final rule must submit a preaddressed, stamped postcard with their comments on which the following statement is made: "Comments to Docket No. 24812." The postcard will be date-stamped by the FAA and returned to the commenter.

Availability of Final Rule

Any person may obtain a copy of this final rule by submitting a request to the Federal Aviation Administration, Office of Public Affairs, ATTN: APA-200, 800 Independence Avenue SW., Washington, DC 20591, or by calling the Office of Public Affairs at (202) 267-3484. Communications must identify the docket number (Docket No. 24812) of this amendment. Persons interested in being placed on a mailing list for future notices should request a copy of Advisory Circular 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

On November 18, 1987, the FAA published a final rule (52 FR 44276) revising and reorganizing 14 CFR Part 139 effective January 1, 1988. The revision included requirements, as contained in § 139.311(a)(3), (4), and (5), pertaining to markings and signs. The FAA subsequently discovered through annual airport certification inspections that many airports were not in compliance with the sign requirements. Moreover, it became evident that there were several interpretations of the sign requirements. The preamble of the notice of proposed rulemaking (NPRM) preceding the final rule stated that the "FAA would work with airports whose lighting and marking systems do not comply with current standards to bring them into compliance over a 4 to 5-year period" (50 FR 43097, October 23, 1985). On October 18, 1988, 14 CFR Part 139.311 was amended (53 FR 40842) to extend the compliance date for part of § 139.311 to January 1, 1991.

After the October 18, 1988, amendment, owners and operators of certificated airports were informed that the FAA was revising the advisory circulars related to airport markings and signs, and that revised

was to insure that the revised AC finally adopted by the FAA would minimize the differences with ICAO, and thereby avoid undue expense and inconvenience to airport owners and operators. The ICAO working group did not make its recommendations until May of 1991, long after the January 1, 1991 compliance date set out in § 139.311(f). Prior to the deadline, however, the FAA began issuing exemptions to those airport operators requesting them, and advised airport operators against installing signs solely for the purposes of complying with § 139.311(a)(3), until the FAA issued the revised AC.

A major effort was made to resolve the differences between the FAA and industry and to develop an AC that minimizes differences with those being considered by ICAO. This resulted in the adoption of FAA Advisory Circular 150/5340-18C entitled "Standards for Airport Sign Systems," on July 31, 1991. The AC was coordinated with industry, the airport community, and the international community (ICAO). Because of the lead time required to produce and install the new sign systems, the FAA estimates that it will take approximately two years for certificated airports to complete the task.

At many airports, taxiway systems will have to be renamed. This will require development of sign system plans and will necessitate advertising for bids, awarding contracts, and then installing the new signs. Furthermore, the length of construction seasons varies from region to region, this adds to the total process time.

Airport operators had been encouraged to wait for publication of the AC before attempting to comply with the requirements of § 139.311(a)(3). This was to preclude installation of signs identifying taxiing routes on the movement area where significant changes were being considered.

Most certificated airport operators have completed installation of runway hold position markings and signs, as well as Instrument Landing System critical area markings and signs which were required by § 139.311(a)(4) and (a)(5). Installation of the hold position signs was designated a very high priority to help reduce incursions at certificated airports.

An extension of the compliance date will provide the time necessary for airports to obtain and install sign systems required by § 139.311(a)(3) that are consistent with the revised AC. The time extension for compliance with the sign installation will enhance nationwide uniformity of airport signs on an expedited basis. The extension will obviate the need for numerous individual exemptions and additional amendments to extend current exemptions.

Regulatory Evaluation Summary

This summary prepared by the FAA provides estimates of the economic consequences of this rule. This summary quantifies, to the extent practicable, estimated costs and benefits of the rule to the private sector, consumers, and Federal, State, and local governments.

Executive Order 12291, dated February 17, 1981, directs Federal agencies to promulgate new regulations or modify existing regulations only if potential benefits to society for each regulatory change outweigh potential costs. The order also requires the preparation of a regulatory impact analysis of all "major" rules except those responding to emergency situations or other narrowly defined exigencies. A "major" rule is one that is likely to result in an annual effect on the economy of \$100 million or more, a major increase in consumer costs, or a significant adverse effect on competition.

The FAA has determined that this rule is not "major", as defined in the executive order. Therefore, a full regulatory impact analysis, which includes the identification and evaluation of cost-reducing alternatives, has not been prepared. Instead, the agency has prepared a summary that presents an analysis of this rule without identifying alternatives. In addition to this summary, the preamble to the rule also contains a regulatory flexibility determination required by the 1980 Regulatory Flexibility Act (P.L. 96-354), and an international trade impact assessment.

On November 18, 1987, the FAA published a final rule (52 FR 44276) revising and reorganizing 14 CFR Part 139, effective January 1, 1988. Airport compliance with this amendment is complete except

savings represent the sum of the total industry costs of applying for exemptions and the total FAA costs of processing those exemptions. Applying for an exemption costs each airport operator approximately \$64 (based on an industry wage rate of approximately \$32 per hour, including benefits, for an airport operator for two hours). Processing the exemption costs the FAA about \$528. This cost is based on the estimated wage rate including benefits of a GS-13, Step 5 employee (\$33) for two days time. The FAA expects there will be approximately 600 applications for exemptions from § 139.311(a)(3) between now and January 1, 1994 if the compliance date is not extended. It is the FAA's position that this proposal will result in a savings by avoiding the need to process exemptions from the sign standards under § 139.311(a)(3). A regulatory evaluation was not prepared for placement into the docket.

International Trade Impact Analysis

This rule will affect airport operators, primarily. The rule will have no impact on trade for U.S. firms doing business overseas or for foreign firms doing business in the United States. There are no expected additional annual costs associated with this rule and, therefore, it should not create an economic disadvantage to either domestic or foreign air carriers operating in the United States.

Regulatory Flexibility Act Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily burdened by government regulations. The RFA requires a Regulatory Flexibility Analysis if a rule has a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. The FAA's criterion for a "substantial number" is a number that is not less than 11 and that is more than one third of the small entities subject to the rule. The size threshold annualized cost level in December 1983 dollars is \$5,400 for airports. Using the GNP Price Deflator and adjusting to 1990 values, this value is \$6,900 for airports.

This rule will affect airport operators. Because the benefits are minimal (\$64) for each small airport and below the \$6,900 threshold criterion for significant economic impact, the FAA finds this rule will not have a significant impact on a substantial number of small entities.

Reason for Immediate Adoption

This rule is being adopted immediately and without prior public notice and comment. This rule requires immediate adoption to extend an unnecessary and undesirable regulatory compliance date which has been an unintended burden on airport owners and operators since January 1, 1991. By immediately adopting this amendment, the FAA alleviates the burden and cost of having to process and issue hundreds of exemptions over the next two years. This action also relieves airport owners and operators from having to request exemptions, and provides a reasonable date by which the sign requirements must be met.

As explained earlier, the FAA had expected to develop a revised AC on airport sign systems long before January 1, 1991, and, in fact, discouraged airport owners and operators from replacing signs solely to comply with § 139.311(a)(3) until issuance of the revised AC. Notice and comment would not serve any meaningful purpose since the compliance deadline has long passed. Thus, comments for or against extending the compliance date would have had little significant impact or meaning. For all of these reasons, prior public notice and comment are impracticable, unnecessary and contrary to the public interest. As stated above, an extension of the compliance date is necessary to adequately provide time for industry to manufacture and applicable airports to install sign systems consistent with the revised AC. Although this action is in the form of a final rule, interested persons are invited to comment by submitting such written data, views, or arguments as they may desire. Comments are specifically invited on the overall regulatory, economic and environmental aspects of the rule that might suggest a need to modify the rule. Factual information that supports the commenter's ideas and suggestions is especially helpful in determining whether modification of the rule is necessary. Comments received on or before the closing date for comments will be considered and this rule may be amended based

among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this amendment does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), there are no requirements for information collection associated with this rule.

Conclusion

For the reasons discussed in the preamble, the FAA has determined that this final rule is not major under Executive Order 12291; nor is it significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). It is certified that under the criteria of the Regulatory Flexibility Act this amendment will not have a significant economic impact, positive or negative, on a substantial number of small entities. Because of the negligible costs resulting from this rule, the FAA has determined that the expected impact of these regulations is so minimal that they do not warrant a full regulatory evaluation.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 139 of the Federal Aviation Regulations (14 CFR part 139) effective April 24, 1992.

The authority citation for part 139 continues to read as follows:

Authority: 49 U.S.C. App 1354(a) and 1432; 49 U.S.C. section 106(g) (Revised Pub. L. 97-449, January 12, 1983).

Amendment 139-20

Airport Certification; Amendment of the Compliance Date For Signs Identifying Taxiing

Adopted: February 4, 1994

Effective: February 14, 1994

(59 FR 7118, February 14, 1994)

SUMMARY: This final rule amends a final rule issued without notice based upon comments received in response to that final rule. This final rule amends the compliance date for certain sign requirements required under the Federal Aviation Regulations (FAR) for airports certificated under 14 CFR part 139. The compliance date for these sign requirements expired on January 1, 1994. This amendment will provide the time necessary for industry to manufacture and airport operators to install the required signs.

FOR FURTHER INFORMATION CONTACT: Mr. William DeLoach, Safety and Compliance Division (AAS-300), Office of Airport Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8723.

SUPPLEMENTARY INFORMATION;

Background

On November 18, 1987, the FAA published a final rule (52 FR 44276) revising and reorganizing 14 CFR part 139 that became effective on January 1, 1988. The revision included modified requirements, as contained in § 139.311, pertaining to markings and lighting. On October 18, 1988, 14 CFR 139 was

Operators of certificated airports were informed of this revision and encouraged to wait for publication of the revised AC before attempting to comply with the requirements of § 139.311(a)(3). This was to preclude installation of signs identifying taxiing routes on the movement area where significant changes were being considered.

The process of revising the sign standards was further complicated by the involvement of the International Civil Aviation Organization (ICAO). As noted above, ICAO was developing international airport sign standards during the period the AC was being revised. To make sure the United States was in conformity internationally, the FAA met with the ICAO to help develop standardization and consistency of airport signs. This precluded the FAA from issuing its revised AC on sign standards until after the ICAO working group made recommendations for revised airport sign standards.

The ICAO working group did not make its recommendations until May of 1991, months after the January 1, 1991 compliance date set out in § 139.311(f). Prior to the deadline, however, the FAA began issuing exemptions to those airport operators requesting them, and advised airport operators against installing signs solely for the purposes of complying with § 139.311(a)(3). Airport operators were urged to wait until the FAA issued the revised AC.

On July 31, 1991, the FAA issued its revised AC entitled "Standards for Airport Sign Systems." The FAA estimated that it would take several years at a minimum for certificated airports to comply with § 139.311(a)(3) because of the lead time required to produce and install the new sign systems. Hence, certificated airports, through no fault of their own, would not be able to meet the requirements of § 139.311(a)(3) for several years. The FAA decided that instead of issuing approximately 600 exemptions, the appropriate response was to revise the regulations to extend the compliance date for § 139.311(a)(3). The 1991 date for compliance for the other marking and lighting requirements was retained.

On April 24, 1992, the FAA issued a final rule (57 FR 15162) extending the compliance date with § 139.311(a)(3) to January 1, 1994. The FAA knew that this was a very ambitious target date. Therefore, in this final rule, which was issued without a prior notice of proposed rulemaking, the FAA requested comments from the public as to the reasonableness of the new deadline. This was done to allow the FAA the opportunity to further extend the compliance date if necessary. The FAA received two comments; one from the Air Line Pilots Association (ALPA) and one from the State of Alaska Department of Transportation and Public Facilities (Alaska). ALPA supported the extension and encouraged the FAA to remain steadfast in its implementation of § 139.311(a)(3). Alaska had several concerns with the established compliance date of January 1, 1994. First, Alaska stated that they had 27 certificated airports that needed to be brought into compliance. Due to the high demand for signs across the country, manufacturers could not be able to provide the materials to these 27 airports in a time frame which would allow them to meet the new deadline. Alaska also was concerned with securing the funding necessary to install new signs by January 1, 1994. Because they rely almost entirely on federal Airport Improvement Program (AIP) funds for all capital improvement projects, they would have to defer other, more critical, safety related projects in order to meet the new signage installation timeframe. Therefore, Alaska recommended that, at the earliest, the installation timeframe be January 1, 1996.

The FAA agrees substantially with both commenters. While it is important that every reasonable effort be made to come into compliance with § 139.311(a)(3), a realistic date is necessary to adequately provide time for industry to manufacture, and applicable operators to install, sign systems on their airports consistent with the revised AC.

The FAA has determined that the very ambitious January 1, 1994, compliance deadline was unrealistic. Despite the extraordinary efforts by both the FAA and operators of part 139 certificated airports, full compliance has not been possible. An extensive survey by the FAA in the fall of 1993 indicates that approximately 60% of certificated airports will be in compliance with § 139.311(a)(3) on January 1, 1994. The other 40% of certificated airports are working hard towards compliance. The first step that an airport must do is develop a sign plan in conjunction with airport users and submit it to the FAA for review

electric lines have to be installed where none now exist. This wiring can encompass significant construction, frequently the wires have to be installed across runways, taxiways, and other paved areas. This signage and electrical work is further complicated by the need to keep the runways and taxiways operational during construction to the maximum extent possible. An additional factor is the varying construction seasons from region to region. In some areas the traditional construction season has been affected by unusual weather disasters, such as the major flooding that occurred during the summer of 1993 in the midwest.

Finally, many airports have had to redesignate taxiways that previously had nonstandard designations. All taxiways on airports certificated under part 139 will now be designated by a letter(s) of the alphabet or alpha numeric(s). The process of renaming taxiways increases the scope of the signage work and requires additional time to phase in to assure that users have adequate time to familiarize themselves with the new designations.

The FAA has concluded that a further extension until January 1, 1995, for compliance with the sign installation requirements of § 139.311(a)(3) is necessary and reasonable. The time extension will obviate the need for numerous exemptions to airport operators. This extension is not expected or intended to delay the date by which the actual signage work will be completed. The FAA does not intend to grant any further extension to the rule deadline.

International Civil Aviation Organization (ICAO) and Joint Aviation Regulations

The FAA has determined that a review of the Convention on International Civil Aviation Standards and Recommended Practices is not warranted because this rule merely extends the compliance date of an earlier final rule that incorporated the recommendations and standards proposed by ICAO for new sign systems through Advisory Circular 150/5340-18C entitled "Standards for Airport Sign Systems."

Paperwork Reduction Act Approval

This final rule will not change the reporting requirements. Therefore, in accordance with the Paperwork Reduction Act of 1980, (Pub. L. 96-511), there are no additional requirements for information collection associated with this final rule.

Economic Evaluation

The FAA has determined that this rule is not significant as defined by Executive Order 12866. Therefore, no Regulatory Impact Analysis is required. Nevertheless, in accordance with Department of Transportation policies and procedures, the FAA has evaluated the economic and technical feasibility of this final rule, which is summarized below.

This final rule amendment would amend the compliance date for certain airport signs required by the FAA from January 1, 1995. The current rule has a deadline of January 1, 1994. Approximately 40% of the certificated airports are still not able to comply for reasons beyond their control.

This rule will not impose any costs on society by extending the compliance date. There will be no incremental costs associated with this final rule since only the date for compliance is being extended. The FAA has concluded that there will be no degradation of safety as all certificated airports have installed the more critical safety-related signs required under part 139. In addition, the 40% of certificated airports that have not yet installed the remaining required signs are working on an expedited basis to remedy the situation.

The FAA has concluded that the rule change will be cost beneficial because unquantifiable benefits in the form of less disruption and more opportunities for minimizing compliance costs for airport operators can be achieved without compromising airport safety.

number of small entities. The FAA's criterion for a "substantial number" is a number that is not less than 11 and that is more than one third of the small entities subject to the rule. The size threshold annualized cost level in December 1983 dollars is \$5,400 for airports. Using the GNP Price deflator and adjusting to 1990 values, this threshold becomes \$7,387.

The rule is of a cost-relieving nature and would therefore afford cost savings to small airport sponsors. The impact of the cost of complying with the sign requirements are expected to be quite small, however, since operators will still be expected to meet the same requirements.

Federalism Impact

The final rule adopted herein will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Conclusion

For the reasons discussed in the preamble, the FAA has determined that this final rule is not significant under Executive Order 12866; nor is it significant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). It is certified that under the criteria of the Regulatory Flexibility Act this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities. Because of the negligible costs resulting from this rule, the FAA has determined that the expected impact of these regulations is so minimal that they do not warrant a full regulatory evaluation.

Reason for Immediate Adoption

This rule is being adopted immediately in response to comments received on an earlier issued final rule without prior public notice and comment. This rule requires immediate adoption to amend and expired regulatory compliance date, which has been an unintended burden on airport operators. By immediately adopting this amendment, the FAA alleviates the burden and cost to airport operators to request, and the FAA to process, petitions for exemption. As stated above, an amendment of the compliance date is necessary to adequately provide time for industry to manufacture and applicable airports to install sign systems.

The Amendment

Accordingly, the FAA amends part 139 of the Federal Aviation Regulations (14 CFR part 139) effective February 14, 1994.

The authority citation for part 139 continues to read as follows:

Authority: 49 U.S.C. App. 1354(a) and 1432; 49 U.S.C. 106(g).

Regulations (CFR). In 1994, the Federal Aviation Act of 1958 and several other statutes conferring authority upon the Federal Aviation Administration were recodified into positive law. This document updates the authority citations listed in the Code of Federal Regulations to reference the current law.

DATES: This final rule is effective December 28, 1995. Comments on this final rule must be received by March 1, 1996.

FOR FURTHER INFORMATION CONTACT: Karen Petronis, Office of the Chief Counsel, Regulations Division (AGC-210), Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; telephone (202) 267-3073.

SUPPLEMENTARY INFORMATION: In July 1994, the Federal Aviation Act of 1958 and numerous other pieces of legislation affecting transportation in general were recodified. The statutory material became "positive law" and was recodified at 49 U.S.C. 1101 *et seq.*

The Federal Aviation Administration is amending the authority citations for its regulations in Chapter I of 14 CFR to reflect the recodification of its statutory authority. No substantive change was intended to any statutory authority by the recodification, and no substantive change is introduced to any regulation by this change.

Although this action is in the form of a final rule and was not preceded by notice and an opportunity for public comment, comments are invited on this action. Interested persons are invited to comment by submitting such written data, views, or arguments as they may desire by March 1, 1996. Comments should identify the rules docket number (Docket No. 28417) and be submitted to the address specified under the caption "FOR FURTHER INFORMATION CONTACT."

Because of the editorial nature of this change, it has been determined that prior notice is unnecessary under the Administrative Procedure Act. It has also been determined that this final rule is not a "significant regulatory action" under Executive Order 12866, nor is it a significant action under DOT regulatory policies and procedures (44 FR 11034, February 26, 1979). Further, the editorial nature of this change has no known or anticipated economic impact; accordingly, no regulatory analysis has been prepared.

Adoption of the Amendment

In consideration of the forgoing, the Federal Aviation Administration amends 14 CFR Chapter I effective December 28, 1995.

The authority citation for part 139 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701-44706, 44709, 44719.

§ 139.1 Applicability.

This part prescribes rules governing the certification and operation of land airports which serve any scheduled or unscheduled passenger operation of an air carrier that is conducted with an aircraft having a seating capacity of more than 30 passengers. This part does not apply to airports at which air carrier passenger operations are conducted only by reason of the airport being designated as an alternate airport.

§ 139.3 Definitions.

The following are definitions of terms as used in this part:

AFFF means aqueous film forming foam agent.

Air carrier means a person who holds or who is required to hold an air carrier operating certificate issued under this chapter while operating aircraft having a seating capacity of more than 30 passengers.

Air carrier aircraft means an aircraft with a seating capacity of more than 30 passengers which is being operated by an air carrier.

Air carrier operation means the takeoff or landing of an air carrier aircraft and includes the period of time from 15 minutes before and until 15 minutes after the takeoff or landing.

Airport means an area of land or other hard surface, excluding water, that is used or intended to be used for the landing and takeoff of aircraft, and includes its buildings and facilities, if any.

Airport operating certificate means a certificate, issued under this part, for operation of an airport serving scheduled operations of air carriers.

Average daily departures means the average number of scheduled departures per day of air carrier aircraft computed on the basis of the busiest 3 consecutive months of the immediately preceding

12 calendar months; except that if the average daily departures are expected to increase, then "average daily departures" may be determined by planned rather than current activity in a manner acceptable to the Administrator.

Certificate holder means the holder of an airport operating certificate or a limited airport operating certificate, except that as used in subpart D "certificate holder" does not mean the holder of a limited airport operating certificate if its airport certification specifications, or this part, do not require compliance with the section in which it is used.

Heliport means an airport or an area of an airport used or intended to be used for the landing and takeoff of helicopters.

Index means an airport ranking according to the type and quantity of aircraft rescue and firefighting equipment and agent required, determined by the length and frequency of air carrier aircraft served by the airport, as provided in subpart D of this part.

Limited airport operating certificate means a certificate, issued under this part, for the operation of an airport serving unscheduled operations of air carriers.

Movement area means the runways, taxiways, and other areas of an airport which are used for taxiing or hover taxiing, air taxiing, takeoff, and landing of aircraft, exclusive of loading ramps and aircraft parking areas.

Regional Airports Division Manager means the airports division manager for the FAA region in which the airport is located.

Safety area means a designated area abutting the edges of a runway or taxiway intended to reduce the risk of damage to an aircraft inadvertently leaving the runway or taxiway.

Wildlife hazard means a potential for a damaging aircraft collision with wildlife on or near an airport. As used in this part, "wildlife" includes domestic animals while out of the control of their owners.

(Amdt. 139-16, Eff. 10/25/89)

State of the United States, the District of Columbia, or any territory or possession of the United States, serving any scheduled passenger operation of an air carrier operating an aircraft having a seating capacity of more than 30 passengers without an airport operating certificate, or in violation of that certificate, the applicable provisions of this part, or the approved airport certification manual for that airport.

(b) Unless otherwise authorized by the Administrator, no person may operate a land airport in any State of the United States, the District of Columbia, or any territory or possession of the United States, serving any unscheduled passenger operation of an air carrier operating an aircraft having a seating capacity of more than 30 passengers without a limited airport operating certificate, or in violation of that certificate, the applicable provisions of this part, or the approved airport specifications for that airport.

(Amdt. 139-17, Eff. 12/19/90)

§ 139.103 Application for certificate.

(a) Each applicant for an airport operating certificate or a limited airport operating certificate must submit an application, in a form and in the manner prescribed by the Administrator, to the Regional Airports Division Manager.

(b) The application must be accompanied by two copies of an airport certification manual or airport certification specifications, as appropriate, prepared in accordance with subpart C of this part.

(Amdt. 139-16, Eff. 10/25/89)

§ 139.105 Inspection authority.

Each applicant for an airport operating certificate or a limited airport operating certificate must allow the Administrator to make any inspections, including unannounced inspections, or tests to determine compliance with—

(a) The Federal Aviation Act of 1958, as amended; and

(a) An applicant for an airport operating certificate is entitled to a certificate if—

(1) The provisions of § 139.103 of this subpart are met;

(2) The Administrator, after investigation, finds that the applicant is properly and adequately equipped and able to provide a safe airport operating environment in accordance with—

(i) Subpart D of this part, and

(ii) Any limitations which the Administrator finds necessary in the public interest; and

(3) The Administrator approves the airport certification manual.

(b) An applicant for a limited airport operating certificate is entitled to a certificate if—

(1) The provisions of § 139.103 of this subpart are met;

(2) The Administrator, after investigation, finds that the applicant is properly and adequately equipped and able to provide a safe airport operating environment in accordance with—

(i) The provisions of subpart D listed in § 139.213(a) of this part, and

(ii) Any other provisions of this part and any limitations which the Administrator finds necessary in the public interest; and

(3) The Administrator approves the airport certification specifications.

§ 139.109 Duration of certificate.

An airport operating certificate or a limited airport operating certificate issued under this part is effective until it is surrendered by the certificate holder or is suspended or revoked by the Administrator.

§ 139.111 Exemptions.

(a) An applicant or a certificate holder may petition the Administrator under § 11.25, Petitions for Rule Making or Exemptions, of this chapter for an exemption from any requirement of this part.

ably costly, burdensome, or impractical.

(c) Each petition filed under this section must be submitted in duplicate to the Regional Airports Division Manager.

(Amdt. 139-16, Eff. 10/25/89)

shall, as soon as practicable, but not later than 14 days after the emergency, report in writing to the Regional Airports Division Manager stating the nature, extent, and duration of the deviation.

(Amdt. 139-16, Eff. 10/25/89)

§ 139.201 Airport operating certificate: Airport certification manual.

(a) An applicant for an airport operating certificate must prepare, and submit with an application, an airport certification manual for approval by the Administrator. Only those items addressing subjects required for certification under this part shall be included in the airport certification manual.

(b) Except as provided in paragraph (c) of this section, each certificate holder shall comply with an approved airport certification manual that meets the requirements of §§ 139.203 and 139.205.

(c) A certificate holder with an approved airport operations manual on December 31, 1987, may use the manual in lieu of the manual required by paragraph (b) of this section until December 31, 1988. Until the certificate holder has an approved airport certification manual, it shall comply with § 139.207 as if that section applied to its airport operations manual.

§ 139.203 Preparation of airport certification manual.

(a) Each airport certification manual required by this part shall—

(1) Be typewritten and signed by the airport operator;

(2) Be in a form that is easy to revise;

(3) Have the date of initial approval or approval of the latest revision on each page or item in the manual and include a page revision log; and

(4) Be organized in a manner helpful to the preparation, review, and approval processes.

(b) FAA Advisory Circulars in the 139 series contain standards and procedures for the development of airport certification manuals which are acceptable to the Administrator.

§ 139.205 Contents of airport certification manual.

(a) Each airport certification manual required by this part shall include operating procedures, facili-

ties and equipment descriptions, responsibility assignments, and any other information needed by personnel concerned with operating the airport in order to comply with—

(1) The provisions of subpart D of this part; and

(2) Any limitations which the Administrator finds necessary in the public interest.

(b) In complying with paragraph (a) of this section, the airport certification manual must include at least the following elements:

(1) Lines of succession of airport operational responsibility.

(2) Each current exemption issued to the airport from the requirements of this part.

(3) Any limitations imposed by the Administrator.

(4) A grid map or other means of identifying locations and terrain features on and around the airport which are significant to emergency operations.

(5) The system of runway and taxiway identification.

(6) The location of each obstruction required to be lighted or marked within the airport's area of authority.

(7) A description of each movement area available for air carriers and its safety areas and each road described in § 139.319(k) that serves it.

(8) Procedures for avoidance of interruption or failure during construction work of utilities serving facilities or nav aids which support air carrier operations.

(9) Procedures for maintaining the paved areas as required by § 139.305.

(10) Procedures for maintaining the unpaved areas as required by § 139.307.

(11) Procedures for maintaining the safety areas as required by § 139.309.

(12) A description of, and procedures for maintaining, the marking and lighting systems as required by § 139.311.

(13) A snow and ice control plan as required by § 139.313.

maintaining, the traffic and wind direction indicators required by § 139.323.

(17) An emergency plan as required by § 139.325.

(18) Procedures for conducting the self-inspection program as required by § 139.327.

(19) Procedures for controlling ground vehicles as required by § 139.329.

(20) Procedures for obstruction removal, marking, or lighting as required by § 139.331.

(21) Procedures for protection of navigaids as required by § 139.333.

(22) A description of public protection as required by § 139.335.

(23) A wildlife hazard management plan as required by § 139.337.

(24) Procedures for airport condition reporting as required by § 139.339.

(25) Procedures for identifying, marking, and reporting construction and other unserviceable areas as required by § 139.341.

(26) Any other item which the Administrator finds is necessary in the public interest.

§ 139.207 Maintenance of airport certification manual.

Each holder of an airport operating certificate shall—

(a) Keep its airport certification manual current at all times;

(b) Maintain at least one complete and current copy of its approved airport certification manual on the airport;

(c) Furnish the applicable portions of the approved airport certification manual to the airport personnel responsible for their implementation;

(d) Make the copy required by paragraph (b) of this section available for inspection by the Administrator upon request; and

(e) Provide the Administrator with one complete and current copy required by paragraph (b) of this section.

specifications.

(b) Except as provided in paragraph (c) of this section, each certificate holder shall comply with the approved airport certification specifications that meet the requirements of §§ 139.211 and 139.213.

(c) A certificate holder with an approved airport operations specification on December 31, 1987, may use those specifications in lieu of the specifications required by paragraph (b) of this section until December 31, 1988. Until the certificate holder has approved airport certification specifications, it shall comply with § 139.215 as if that section applied to its airport operations specifications.

§ 139.211 Preparation of airport certification specifications.

(a) Each airport certification specifications required by this part shall—

(1) Be typewritten and signed by the airport operator;

(2) Be in a form that is easy to revise;

(3) Have the date of initial approval or approval of the latest revision on each page or item in the specifications and include a page revision log; and

(4) Be organized in a manner helpful to the preparation, review, and approval processes.

(b) FAA Advisory Circulars in the 139 series contain standards and procedures for the development of airport certification specifications which are acceptable to the Administrator.

§ 139.213 Contents of airport certification specifications.

(a) The airport certification specifications required by this part shall include operating procedures, facilities and equipment descriptions, responsibility assignments, and any other information needed by personnel concerned with operating the airport in order to comply with—

(1) The following provisions of subpart D of this part:

(i) Section 139.301 Inspection authority.

(ii) Section 139.303 Personnel.

finds necessary in the public interest.

(b) In complying with paragraph (a) of this section, the airport certification specifications shall include at least the following elements:

(1) Lines of succession of airport operational responsibility.

(2) Each current exemption issued to the airport from the requirements of this part.

(3) Any limitations imposed by the Administrator.

(4) The system of runway and taxiway identification.

(5) The location of each obstruction required to be lighted or marked within the airport's area of authority.

(6) A description of each movement area available for air carriers and its safety areas.

(7) Procedures for maintaining the paved areas as required by § 139.305.

(8) Procedures for maintaining the unpaved areas as required by § 139.307.

(9) Procedures for maintaining the safety areas as required by § 139.309.

(10) A description of, and procedures for maintaining, the marking and lighting systems as required by § 139.311.

(11) A description of the facilities, equipment, personnel, and procedures for emergency response to aircraft rescue and firefighting needs.

(12) Procedures for safety in storing and handling of hazardous substances and materials.

(13) A description of, and procedures for maintaining, any traffic and wind direction indicators on the airport.

(14) A description of the procedures used for conducting self-inspections of the airport.

(15) Procedures and responsibilities for airport condition reporting as required by § 139.339.

(16) Procedures for compliance with any other provisions of subpart D of this part, and any limitations, which the Administrator finds necessary in the public interest.

tions on the airport;

(c) Furnish the applicable portions of the approved airport certification specifications to the airport personnel responsible for their implementation;

(d) Make the copy required by paragraph (b) of this section available for inspection by the Administrator upon request; and

(e) Provide the Administrator with one complete and current copy required by paragraph (b) of this section.

§ 139.217 Amendment of airport certification manual or airport certification specifications.

(a) The Regional Airports Division Manager may amend any airport certification manual or any airport certification specifications approved under this part, either—

(1) Upon application by the certification holder; or

(2) On the Regional Airports Division Manager's own initiative if the Regional Airports Division Manager determines that safety in air transportation or air commerce and the public interest require the amendment.

(b) An applicant for an amendment to its airport certification manual or its airport certification specifications shall file its application with the Regional Airports Division Manager at least 30 days before the proposed effective date of the amendment, unless a shorter filing period is allowed by that office.

(c) At any time within 30 days after receiving a notice of refusal to approve the application for amendment, the certificate holder may petition the Administrator to reconsider the refusal to amend.

(d) In the case of amendments initiated by the Regional Airports Division Manager, the office notifies the certificate holder of the proposed amendment, in writing, fixing a reasonable period (but not less than 7 days) within which the certificate holder may submit written information, views, and arguments on the amendment. After con-

which case its effective date is stayed pending a decision by the Administrator.

(e) Notwithstanding the provisions of paragraph (d) of this section, if the Regional Airports Division Manager finds that there is an emergency requiring immediate action with respect to safety in air transportation or air commerce that makes the pro-

ment. Within 30 days after the issuance of such an emergency amendment, the certificate holder may petition the Administrator to reconsider either the finding of an emergency or the amendment itself or both. This petition does not automatically stay the effectiveness of the emergency amendment.

(Amdt. 139-16, Eff. 10/25/89)

trator to make any inspections, including unannounced inspections, or tests to determine compliance with this part.

§ 139.303 Personnel.

Each certificate holder shall maintain sufficient qualified personnel to comply with the requirements of its airport certification manual or airport certification specifications and the applicable rules of this part.

§ 139.305 Paved areas.

(a) Each certificate holder shall maintain, and promptly repair the pavement of, each runway, taxiway, loading ramp, and parking area on the airport which is available for air carrier use as follows:

(1) The pavement edges shall not exceed 3 inches difference in elevation between abutting pavement sections and between full strength pavement and abutting shoulders.

(2) The pavement shall have no hole exceeding 3 inches in depth nor any hole the slope of which from any point in the hole to the nearest point at the lip of the hole is 45 degrees or greater as measured from the pavement surface plane, unless, in either case, the entire area of the hole can be covered by a 5-inch diameter circle.

(3) The pavement shall be free of cracks and surface variations which could impair directional control of air carrier aircraft.

(4) Except as provided in paragraph (b) of this section, mud, dirt, sand, loose aggregate, debris, foreign objects, rubber deposits, and other contaminants shall be removed promptly and as completely as practicable.

(5) Except as provided in paragraph (b) of this section, any chemical solvent that is used to clean any pavement area shall be removed as soon as possible, consistent with the instructions of the manufacturer of the solvent.

(6) The pavement shall be sufficiently drained and free of depressions to prevent ponding that

(b) Paragraphs (a)(4) and (a)(5) of this section do not apply to snow and ice accumulations and their control, including the associated use of materials such as sand and deicing solutions.

(c) FAA Advisory Circulars in the 150 series contain standards and procedures for the maintenance and configuration of paved areas which are acceptable to the Administrator.

§ 139.307 Unpaved areas.

(a) Each certificate holder shall maintain and promptly repair the surface of each gravel, turf, or other unpaved runway, taxiway, or loading ramp and parking area on the airport which is available for air carrier use as follows:

(1) No slope from the edge of the full-strength surfaces downward to the existing terrain shall be steeper than 2:1.

(2) The full-strength surfaces shall have adequate crown or grade to assure sufficient drainage to prevent ponding.

(3) The full-strength surfaces shall be adequately compacted and sufficiently stable to prevent rutting by aircraft, or the loosening or build-up of surface material which could impair directional control of aircraft or drainage.

(4) The full-strength surfaces must have no holes or depressions which exceed 3 inches in depth and are of a breadth capable of impairing directional control or causing damage to an aircraft.

(5) Debris and foreign objects shall be promptly removed from the surface.

(b) Standards and procedures for the maintenance and configuration of unpaved full-strength surfaces shall be included in the airport certification manual or the airport certification specifications, as appropriate, for compliance with this section.

§ 139.309 Safety areas.

(a) To the extent practicable, each certificate holder shall provide and maintain for each runway and taxiway which is available for air carrier use—

conforms to the dimensions acceptable to the Administrator at the time construction, reconstruction, or expansion began.

(b) Each certificate holder shall maintain its safety areas as follows:

(1) Each safety area shall be cleared and graded, and have no potentially hazardous ruts, humps, depressions, or other surface variations.

(2) Each safety area shall be drained by grading or storm sewers to prevent water accumulation.

(3) Each safety area shall be capable under dry conditions of supporting snow removal equipment, and aircraft rescue and firefighting equipment, and supporting the occasional passage of aircraft without causing major damage to the aircraft.

(4) No object may be located in any safety area, except for objects that need to be located in a safety area because of their function. These objects shall be constructed, to the extent practical, on frangibly mounted structures of the lowest practical height with the frangible point no higher than 3 inches above grade.

(c) FAA Advisory Circulars in the 150 series contain standards and procedures for the configuration and maintenance of safety areas acceptable to the Administrator.

§ 139.311 Marking and lighting.

(a) Each certificate holder shall provide and maintain at least the following marking systems for air carrier operations on the airport:

(1) Runway markings meeting the specifications for the approach with the lowest minimums authorized for each runway.

(2) Taxiway centerline and edge markings.

(3) Signs identifying taxiing routes on the movement area.

(4) Runway holding position markings and signs.

(5) ILS critical area markings and signs.

(b) Each certificate holder shall provide and maintain, when the airport is open during hours of darkness or during conditions below VFR mini-

(i) Centerline reflectors.

(iii) Edge lights.

(iv) Edge reflectors.

(3) An airport beacon.

(4) Approach lighting meeting the specifications for the approach with the lowest minimums authorized for each runway, unless otherwise provided and maintained by the FAA or another agency.

(5) Obstruction marking and lighting, as appropriate, on each object within its authority which constitutes an obstruction under part 77 of this chapter. However, this lighting and marking is not required if it is determined to be unnecessary by an FAA aeronautical study.

(c) Each certificate holder shall properly maintain each marking or lighting system installed on the airport which is owned by the certificate holder. As used in this section, to "properly maintain" includes: To clean, replace, or repair any faded, missing, or nonfunctional item of lighting; to keep each item unobscured and clearly visible; and to ensure that each item provides an accurate reference to the user.

(d) Each certificate holder shall ensure that all lighting on the airport, including that for aprons, vehicle parking areas, roadways, fuel storage areas, and buildings, is adequately adjusted or shielded to prevent interference with air traffic control and aircraft operations.

(e) FAA Advisory Circulars in the 150 series contain standards and procedures for equipment, material, installation, and maintenance of light systems and marking listed in this section which are acceptable to the Administrator.

(f) [Notwithstanding paragraph (a) of this section, a certificate holder is not required to provide the identified signs in paragraph (a) (3) of this section until January 1, 1995. Each certificate holder shall maintain each marking system that meets paragraph (a)(3) of this section.]

(Amdt. 139-15, Eff. 10/18/88); (Amdt. 139-19, Eff. 4/24/92); [(Amdt. 139-20, Eff. 2/14/94)]

(1) Prompt removal or control, as completely as practical, of snow, ice, and slush on each movement area;

(2) Positioning snow off of movement area surfaces so that all air carrier aircraft propellers, engine pods, rotors, and wingtips will clear any snowdrift and snowbank as the aircraft's landing gear traverses any full strength portion of the movement area;

(3) Selection and application of approved materials for snow and ice control to ensure that they adhere to snow and ice sufficiently to minimize engine ingestion;

(4) Timely commencement of snow and ice control operations; and

(5) Prompt notification, in accordance with § 139.339, of all air carriers using the airport when any portion of the movement area normally available to them is less than satisfactorily cleared for safe operation by their aircraft.

(c) FAA Advisory Circulars in the 150 series contain standards for snow and ice control equipment, materials, and procedures for snow and ice control which are acceptable to the Administrator.

§ 139.315 Aircraft rescue and firefighting: Index determination.

(a) An Index is required by paragraph (c) of this section for each certificate holder. The Index is determined by a combination of—

(1) The length of air carrier aircraft expressed in groups; and

(2) Average daily departures of air carrier aircraft.

(b) For the purpose of Index determination, air carrier aircraft lengths are grouped as follows:

(1) Index A includes aircraft less than 90 feet in length.

(2) Index B includes aircraft at least 90 feet but less than 126 feet in length.

(3) Index C includes aircraft at least 126 feet but less than 159 feet in length.

(4) Index D includes aircraft at least 159 feet but less than 200 feet in length.

(2) If there are less than five average daily departures of air carrier aircraft in a single Index group serving that airport, the next lower Index from the longest Index group with air carrier aircraft in it is the Index required for the airport. The minimum designated Index shall be Index A.

§ 139.317 Aircraft rescue and firefighting: Equipment and agents.

The following rescue and firefighting equipment and agents are the minimum required for the Indexes referred to in § 139.315:

(a) *Index A*: One vehicle carrying at least—

(1) 500 pounds of sodium-based dry chemical or halon 1211; or

(2) 450 pounds of potassium-based dry chemical and water with a commensurate quantity of AFFF to total 100 gallons, for simultaneous dry chemical and AFFF foam application.

(b) *Index B*: Either of the following:

(1) One vehicle carrying at least 500 pounds of sodium-based dry chemical or halon 1211, and 1,500 gallons of water, and the commensurate quantity of AFFF for foam production.

(2) Two vehicles—

(i) One vehicle carrying the extinguishing agents as specified in paragraph (a)(1) or (2) of this section; and

(ii) One vehicle carrying an amount of water and the commensurate quantity of AFFF so that the total quantity of water for foam production carried by both vehicles is at least 1,500 gallons.

(c) *Index C*: Either of the following:

(1) Three vehicles—

(i) One vehicle carrying the extinguishing agents as specified in paragraph (a)(1) or (2) of this section; and

(ii) Two vehicles carrying an amount of water and the commensurate quantity of AFFF so that the total quantity of water for foam production carried by all three vehicles is at least 3,000 gallons.

(d) *Index D: Three vehicles—*

(1) One vehicle carrying the extinguishing agents as specified in paragraph (a)(1) or (2) of this section; and

(2) Two vehicles carrying an amount of water and the commensurate quantity of AFFF so that the total quantity of water for foam production carried by all three vehicles is at least 4,000 gallons.

(e) *Index E: Three vehicles—*

(1) One vehicle carrying the extinguishing agents as specified in paragraph (a)(1) or (2) of this section; and

(2) Two vehicles carrying an amount of water and the commensurate quantity of AFFF so that the total quantity of water for foam production carried by all three vehicles is at least 6,000 gallons.

(f) Notwithstanding the provisions of paragraphs (a) through (e) of this section, any certificate holder whose vehicles met the requirements of this part for quantity and type of extinguishing agent on December 31, 1987, may comply with the Index requirements of this section by carrying extinguishing agents to the full capacity of those vehicles. Whenever any of those vehicles is replaced or rehabilitated, the capacity of the replacement or rehabilitated vehicle shall be sufficient to comply with the requirements of the required Index.

(g) *Foam discharge capacity.* Each aircraft rescue and firefighting vehicle used to comply with Index B, C, D, or E requirements with a capacity of at least 500 gallons of water for foam production shall be equipped with a turret. Vehicle turret discharge capacity shall be as follows:

(1) Each vehicle with a minimum rated vehicle water tank capacity of at least 500 gallons but less than 2,000 gallons shall have a turret discharge rate of at least 500 gallons per minute but not more than 1,000 gallons per minute.

(2) Each vehicle with a minimum rated vehicle water tank capacity of at least 2,000 gallons shall have a turret discharge rate of at least 600 gallons per minute but not more than 1,200 gallons per minute.

(h) *Dry chemical and halon 1211 discharge capacity.* Each aircraft rescue and firefighting vehicle which is required to carry dry chemical or halon 1211 for compliance with the index requirements of this section must meet one of the following minimum discharge rates for the equipment installed:

(1) Dry chemical or halon 1211 through a hand line, 5 pounds per second.

(2) Dry chemical or halon 1211 through a turret, 16 pounds per second.

(i) *Extinguishing agent substitutions.* The following extinguishing agent substitutions may be made:

(1) Protein or fluoroprotein foam concentrates may be substituted for AFFF. When either of these substitutions is selected, the volume of water to be carried for the substitute foam production shall be calculated by multiplying the volume of water required for AFFF by the factor 1.5.

(2) Sodium- or potassium-based dry chemical or halon 1211 may be substituted for AFFF. Up to 30 percent of the amount of water specified for AFFF production may be replaced by dry chemical or halon 1211, except that for airports where such extreme climatic conditions exist that water is either unmanageable or unobtainable, as in arctic or desert regions, up to 100 percent of the required water may be replaced by dry chemical or halon 1211. When this substitution is selected, 12.7 pounds of dry chemical or halon 1211 shall be substituted for each gallon of water used for AFFF foam production.

(3) Sodium- or potassium-based dry chemical or halon 1211 may be substituted for protein or fluoroprotein foam. When this substitution is selected, 8.4 pounds of dry chemical or halon 1211 shall be substituted for one gallon of water for protein or fluoroprotein foam production.

(4) AFFF may be substituted for dry chemical or halon 1211. For airports where meteorological conditions, such as consistently high winds and precipitation, would frequently prevent the effective use of dry chemical or halon 1211, up to 50 percent of these agents may be replaced by

specified, 450 pounds of potassium-based dry chemical may be substituted.

(6) Other extinguishing agent substitutions acceptable to the Administrator may be made in amounts that provide equivalent firefighting capability.

(j) In addition to the quantity of water required, each vehicle required to carry AFFF shall carry AFFF in an appropriate amount to mix with twice the water required to be carried by the vehicle.

(k) FAA Advisory Circulars in the 150 series contain standards and procedures for AFFF equipment and agents which are acceptable to the Administrator.

§ 139.319 Aircraft rescue and firefighting: Operational requirements.

(a) Except as provided in paragraph (c) of this section, each certificate holder shall provide on the airport, during air carrier operations at the airport, at least the rescue and firefighting capability specified for the Index required by § 139.317.

(b) *Increase in Index.* Except as provided in paragraph (c) of this section, if an increase in the average daily departures or the length of air carrier aircraft results in an increase in the Index required by paragraph (a) of this section, the certificate holder shall comply with the increased requirements.

(c) *Reduction in rescue and firefighting.* During air carrier operations with only aircraft shorter than the Index aircraft group required by paragraph (a) of this section, the certificate holder may reduce the rescue and firefighting to a lower level corresponding to the Index group of the longest air carrier aircraft being operated.

(d) Any reduction in the rescue and firefighting capability from the Index required by paragraph (a) of this section in accordance with paragraph (c) of this section shall be subject to the following conditions:

(1) Procedures for, and the persons having the authority to implement, the reductions must be included in the airport certification manual.

(2) A system and procedures for recall of the full aircraft rescue and firefighting capability

required under § 139.317 shall be equipped with two-way voice radio communications which provides for contact with at least—

(1) Each other required emergency vehicle;

(2) The air traffic control tower, if it is located on the airport; and

(3) Other stations, as specified in the airport emergency plan.

(f) *Vehicle marking and lighting.* Each vehicle required under § 139.317 shall—

(1) Have a flashing or rotating beacon; and

(2) Be painted or marked in colors to enhance contrast with the background environment and optimize daytime and nighttime visibility and identification.

(g) FAA Advisory Circulars in the 150 series contain standards for painting, marking and lighting vehicles used on airports which are acceptable to the Administrator.

(h) *Vehicle readiness.* Each vehicle required under § 139.317 shall be maintained as follows:

(1) The vehicle and its systems shall be maintained so as to be operationally capable of performing the functions required by this subpart during all air carrier operations.

(2) If the airport is located in a geographical area subject to prolonged temperatures below 33 degrees Fahrenheit, the vehicles shall be provided with cover or other means to ensure equipment operation and discharge under freezing conditions.

(3) Any required vehicle which becomes inoperative to the extent that it cannot perform as required by § 139.319(h)(1) shall be replaced immediately with equipment having at least equal capabilities. If replacement equipment is not available immediately, the certificate holder shall so notify the Regional Airports Division Manager and each air carrier using the airport in accordance with § 139.339. If the required Index level of capability is not restored within 48 hours, the airport operator, unless otherwise authorized by the Administrator, shall limit air carrier operations on the airport to those compatible with the Index corresponding to the remaining operative rescue and firefighting equipment.

demonstrate compliance with the response requirements specified in this section.

(2) The response required by paragraph (i)(1)(ii) of this section shall achieve the following performance:

(i) Within 3 minutes from the time of the alarm, at least one required airport rescue and firefighting vehicle shall reach the midpoint of the farthest runway serving air carrier aircraft from its assigned post, or reach any other specified point of comparable distance on the movement area which is available to air carriers, and begin application of foam, dry chemical, or halon 1211.

(ii) Within 4 minutes from the time of alarm, all other required vehicles shall reach the point specified in paragraph (i)(2)(i) of this section from their assigned post and begin application of foam, dry chemical, or halon 1211.

(j) *Personnel.* Each certificate holder shall ensure the following:

(1) All rescue and firefighting personnel are equipped in a manner acceptable to the Administrator with protective clothing and equipment needed to perform their duties.

(2) All rescue and firefighting personnel are properly trained to perform their duties in a manner acceptable to the Administrator. The training curriculum shall include initial and recurrent instruction in at least the following areas:

(i) Airport familiarization.

(ii) Aircraft familiarization.

(iii) Rescue and firefighting personnel safety.

(iv) Emergency communications systems on the airport, including fire alarms.

(v) Use of the fire hoses, nozzles, turrets, and other appliances required for compliance with this part.

(vi) Application of the types of extinguishing agents required for compliance with this part.

(vii) Emergency aircraft evacuation assistance.

(viii) Firefighting operations.

12 months.

(4) After January 1, 1989, at least one of the required personnel on duty during air carrier operations has been trained and is current in basic emergency medical care. This training shall include 40 hours covering at least the following areas:

(i) Bleeding.

(ii) Cardiopulmonary resuscitation.

(iii) Shock.

(iv) Primary patient survey.

(v) Injuries to the skull, spine, chest, and extremities.

(vi) Internal injuries.

(vii) Moving patients.

(viii) Burns.

(ix) Triage.

(5) Sufficient rescue and firefighting personnel are available during all air carrier operations to operate the vehicles, meet the response times, and meet the minimum agent discharge rates required by this part;

(6) Procedures and equipment are established and maintained for alerting rescue and firefighting personnel by siren, alarm, or other means acceptable to the Administrator, to any existing or impending emergency requiring their assistance.

(k) *Emergency access roads.* Each certificate holder shall ensure that roads which are designated for use as emergency access roads for aircraft rescue and firefighting vehicles are maintained in a condition that will support those vehicles during all-weather conditions.

(Amdt. 139-15, Eff. 10/18/88); (Amdt. 139-16, Eff. 10/25/89)

§ 139.321 Handling and storing of hazardous substances and materials.

(a) Each certificate holder which acts as a cargo handling agent shall establish and maintain procedures for the protection of persons and property on the airport during the handling and storing of any material regulated by the Hazardous Materials Regulations (49 CFR part 171, *et seq.*), that is,

(b) Each certificate holder shall establish and maintain standards acceptable to the Administrator for protecting against fire and explosions in storing, dispensing, and otherwise handling fuel, lubricants, and oxygen (other than articles and materials that are, or are intended to be, aircraft cargo) on the airport. These standards shall cover facilities, procedures, and personnel training and shall address at least the following:

- (1) Grounding and bonding.
- (2) Public protection.
- (3) Control of access to storage areas.
- (4) Fire safety in fuel farm and storage areas.
- (5) Fire safety in mobile fuelers, fueling pits, and fueling cabinets.
- (6) After January 1, 1989, training of fueling personnel in fire safety in accordance with paragraph (e) of this section.
- (7) The fire code of the public body having jurisdiction over the airport.

(c) Each certificate holder shall, as a fueling agent, comply with and, except as provided in paragraph (h) of this section, require all other fueling agents operating on the airport to comply with the standards established under paragraph (b) of this section and shall perform reasonable surveillance of all fueling activities on the airport with respect to those standards.

(d) Each certificate holder shall inspect the physical facilities of each airport tenant fueling agent at least once every 3 months for compliance with paragraph (b) of this section and maintain a record of that inspection for at least 12 months. The certificate holder may use an independent organization to perform this inspection if—

- (1) It is acceptable by the Administrator; and
- (2) It prepares a record of its inspection sufficiently detailed to assure the certificate holder and the FAA that the inspection is adequate.

(e) The training required in paragraph (b)(6) of this section shall include at least the following:

- (1) At least one supervisor with each fueling agent shall have completed an aviation fuel train-

agent that the training required by paragraph (e) of this section has been accomplished.

(g) Unless otherwise authorized by the Administrator, each certificate holder shall require each tenant fueling agent to take immediate corrective action whenever the certificate holder becomes aware of noncompliance with a standard required by paragraph (b) of this section. The certificate holder shall notify the appropriate FAA Regional Airports Division Manager immediately when noncompliance is discovered and corrective action cannot be accomplished within a reasonable period of time.

(h) A certificate holder need not require an air carrier operating under part 121 or part 135 of this chapter to comply with the standards required by this section.

(i) FAA Advisory Circulars in the 150 Series contain standards and procedures for the handling and storage of hazardous substances and materials which are acceptable to the Administrator.

(Amdt. 139-15, Eff. 10/18/88); (Amdt. 139-16, Eff. 10/25/89)

§ 139.323 Traffic and wind direction indicators.

Each certificate holder shall provide the following on its airport:

(a) [A wind cone that provides surface wind direction information visually to pilots. For each airport in a Class B airspace area, supplemental wind cones must be installed at each runway end or at least at one point visible to the pilot while on final approach and prior to takeoff. If the airport is open for air carrier operations during hours of darkness, the wind direction indicators must be lighted.]

(b) For airports serving any air carrier operation when there is no control tower operating, a segmented circle around one wind cone and a landing strip and traffic pattern indicator for each runway with a right-hand traffic pattern.

[(Amdt. 139-18, Eff. 9/16/93)]

(2) Sufficient detail to provide adequate guidance to each person who must implement it.

(b) The plan required by this section must contain instructions for response to—

- (1) Aircraft incidents and accidents;
- (2) Bomb incidents, including designated parking areas for the aircraft involved;
- (3) Structural fires;
- (4) Natural disaster;
- (5) Radiological incidents;
- (6) Sabotage, hijack incidents, and other unlawful interference with operations;
- (7) Failure of power for movement area lighting; and
- (8) Water rescue situations.

(c) The plan required by this section must address or include—

(1) To the extent practicable, provisions for medical services including transportation and medical assistance for the maximum number of persons that can be carried on the largest air carrier aircraft that the airport reasonably can be expected to serve;

(2) The name, location, telephone number, and emergency capability of each hospital and other medical facility, and the business address and telephone number of medical personnel on the airport or in the communities it serves, agreeing to provide medical assistance or transportation;

(3) The name, location, and telephone number of each rescue squad, ambulance service, military installation, and government agency on the airport or in the communities it serves, that agrees to provide medical assistance or transportation;

(4) An inventory of surface vehicles and aircraft that the facilities, agencies, and personnel included in the plan under paragraphs (c)(2) and (c)(3) of this section will provide to transport injured and deceased persons to locations on the airport and in the communities it serves;

(5) Each hangar or other building on the airport or in the communities it serves that will be used to accommodate uninjured, injured, and deceased persons;

(d) The plan required by this section must provide for—

(1) The marshalling, transportation, and care of ambulatory injured and uninjured accident survivors;

(2) The removal of disabled aircraft;

(3) Emergency alarm systems; and

(4) Coordination of airport and control tower functions relating to emergency actions.

(e) The plan required by this section shall contain procedures for notifying the facilities, agencies, and personnel who have responsibilities under the plan of the location of an aircraft accident, the number of persons involved in that accident, or any other information necessary to carry out their responsibilities, as soon as that information is available.

(f) The plan required by this section shall contain provisions, to the extent practicable, for the rescue of aircraft accident victims from significant bodies of water or marsh lands adjacent to the airport which are crossed by the approach and departure flight paths of air carriers. A body of water or marsh land is significant if the area exceeds one-quarter square mile and cannot be traversed by conventional land rescue vehicles. To the extent practicable, the plan shall provide for rescue vehicles with a combined capacity for handling the maximum number of persons that can be carried on board the largest air carrier aircraft that the airport reasonably can be expected to serve.

(g) Each certificate holder shall—

(1) Coordinate its plan with law enforcement agencies, rescue and fire fighting agencies, medical personnel and organizations, the principal tenants at the airport, and all other persons who have responsibilities under the plan;

(2) To the extent practicable, provide for participation by all facilities, agencies, and personnel specified in paragraph (g)(1) of this section in the development of the plan;

(3) Ensure that all airport personnel having duties and responsibilities under the plan are familiar with their assignments and are properly trained;

contain standards and procedures for the development of an airport emergency plan which are acceptable to the Administrator.

§ 139.327 Self-inspection program.

(a) Each certificate holder shall inspect the airport to assure compliance with this subpart—

(1) Daily, except as otherwise required by the airport certification manual or airport certification specifications;

(2) When required by any unusual condition such as construction activities or meteorological conditions that may affect safe air carrier operations; and

(3) Immediately after an accident or incident.

(b) Each certificate holder shall provide the following:

(1) Equipment for use in conducting safety inspections of the airport;

(2) Procedures, facilities, and equipment for reliable and rapid dissemination of information between airport personnel and its air carriers;

(3) Procedures to ensure that qualified inspection personnel perform the inspections; and

(4) A reporting system to ensure prompt correction of unsafe airport conditions noted during the inspection.

(c) Each certificate holder shall prepare and keep for at least 6 months, and make available for inspection by the Administrator on request, a record of each inspection prescribed by this section, showing the conditions found and all corrective actions taken.

(d) FAA Advisory Circulars in the 150 series contain standards and procedures for the conduct of airport self-inspections which are acceptable to the Administrator.

§ 139.329 Ground vehicles.

Each certificate holder shall—

(a) Limit access to movement areas and safety areas only to those ground vehicles necessary for airport operations;

following:

(1) Two-way radio communications between each vehicle and the tower,

(2) An escort vehicle with two-way radio communications with the tower to accompany any vehicle without a radio, or

(3) Measures acceptable to the Administrator for controlling vehicles, such as signs, signals, or guards, when it is not operationally practical to have two-way radio communications with the vehicle or an escort vehicle;

(d) When an air traffic control tower is not in operation, provide adequate procedures to control ground vehicles on the movement area through pre-arranged signs or signals;

(e) Ensure that each employee, tenant, or contractor who operates a ground vehicle on any portion of the airport that has access to the movement area is familiar with the airport's procedures for the operation of ground vehicles and the consequences of noncompliance; and

(f) On request by the Administrator, make available for inspection any record of accidents or incidents on the movement areas involving air carrier aircraft and/or ground vehicles.

(Amdt. 139-17, Eff. 12/19/90)

§ 139.331 Obstructions.

Each certificate holder shall ensure that each object in each area within its authority which exceeds any of the heights or penetrates the imaginary surfaces described in part 77 of this chapter is either removed, marked, or lighted. However, removal, marking, and lighting is not required if it is determined to be unnecessary by an FAA aeronautical study.

§ 139.333 Protection of nav aids.

Each certificate holder shall—

(a) Prevent the construction of facilities on its airport that, as determined by the Administrator, would derogate the operation of an electronic or visual navaid and air traffic control facilities on the airport;

(a) Each certificate holder shall provide—

(1) Safeguards acceptable to the Administrator to prevent inadvertent entry to the movement area by unauthorized persons or vehicles; and

(2) Reasonable protection of persons and property from aircraft blast.

(b) Fencing meeting the requirements of part 107 of this chapter in areas subject to that part is acceptable for meeting the requirements of paragraph (a)(1) of this section.

§ 139.337 Wildlife hazard management.

(a) Each certificate holder shall provide for the conduct of an ecological study, acceptable to the Administrator, when any of the following events occurs on or near the airport:

(1) An air carrier aircraft experiences a multiple bird strike or engine ingestion.

(2) An air carrier aircraft experiences a damaging collision with wildlife other than birds.

(3) Wildlife of a size or in numbers capable of causing an event described in paragraph (a) (1) or (2) of this section is observed to have access to any airport flight pattern or movement area.

(b) The study required in paragraph (a) of this section shall contain at least the following:

(1) Analysis of the event which prompted the study.

(2) Identification of the species, numbers, locations, local movements, and daily and seasonal occurrences of wildlife observed.

(3) Identification and location of features on and near the airport that attract wildlife.

(4) Description of the wildlife hazard to air carrier operations.

(c) The study required by paragraph (a) of this section shall be submitted to the Administrator, who determines whether or not there is a need for a wildlife hazard management plan. In reaching this determination, the Administrator considers—

(1) The ecological study;

(2) The aeronautical activity at the airport;

(3) The views of the certificate holder;

(4) The views of the airport users; and

(2) Provide measures to alleviate or eliminate wildlife hazards to air carrier operations.

(e) The plan shall include at least the following:

(1) The persons who have authority and responsibility for implementing the plan.

(2) Priorities for needed habitat modification and changes in land use identified in the ecological study, with target dates for completion.

(3) Requirements for and, where applicable, copies of local, state, and Federal wildlife control permits.

(4) Identification of resources to be provided by the certificate holder for implementation of the plan.

(5) Procedures to be followed during air carrier operations, including at least—

(i) Assignment of personnel responsibilities for implementing the procedures;

(ii) Conduct of physical inspections of the movement area and other areas critical to wildlife hazard management sufficiently in advance of air carrier operations to allow time for wildlife controls to be effective;

(iii) Wildlife control measures; and

(iv) Communication between the wildlife control personnel and any air traffic control tower in operation at the airport.

(6) Periodic evaluation and review of the wildlife hazard management plan for—

(i) Effectiveness in dealing with the wildlife hazard; and

(ii) Indications that the existence of the wildlife hazard, as previously described in the ecological study, should be reevaluated.

(7) A training program to provide airport personnel with the knowledge and skills needed to carry out the wildlife hazard management plan required by paragraph (d) of this section.

(f) Notwithstanding the other requirements of this section, each certificate holder shall take immediate measures to alleviate wildlife hazards whenever they are detected.

(g) FAA Advisory Circulars in the 150 series contain standards and procedures for wildlife hazard

tion, the certificate holder shall utilize the NOTAM system and, as appropriate, other systems and procedures acceptable to the Administrator.

(c) In complying with paragraph (a) of this section, the certificate holder shall provide information on the following airport conditions which may affect the safe operations of air carriers:

(1) Construction or maintenance activity on movement areas, safety areas, or loading ramps and parking areas.

(2) Surface irregularities on movement areas or loading ramps and parking areas.

(3) Snow, ice, slush, or water on the movement area or loading ramps and parking areas.

(4) Snow piled or drifted on or near movement areas contrary to § 139.313.

(5) Objects on the movement area or safety areas contrary to § 139.309.

(6) Malfunction of any lighting system required by § 139.311.

(7) Unresolved wildlife hazards as identified in accordance with § 139.337.

(8) Nonavailability of any rescue and firefighting capability required in §§ 139.317 and 139.319.

(9) Any other condition as specified in the airport certification manual or airport certification specifications, or which may otherwise adversely affect the safe operations of air carriers.

(d) FAA Advisory Circulars in the 150 series contain standards and procedures for using the

(1) Mark and, if appropriate, light in a manner acceptable to the Administrator—

(i) Each construction area and unserviceable area which is on or adjacent to any movement area or any other area of the airport on which air carrier aircraft may be operated;

(ii) Each item of construction equipment and each construction roadway, which may affect the safe movement of aircraft on the airport; and

(iii) Any area adjacent to a navaid that, if traversed, could cause derogation of the signal or the failure of the navaid, and

(2) Provide procedures, such as a review of all appropriate utility plans prior to construction, for avoiding damage to existing utilities, cables, wires, conduits, pipelines, or other underground facilities.

(b) FAA Advisory Circulars in the 150 series contain standards and procedures for identifying and marking construction areas which are acceptable to the Administrator.

§ 139.343 Noncomplying conditions.

Unless otherwise authorized by the Administrator, whenever the requirements of subpart D of this part cannot be met to the extent that uncorrected unsafe conditions exist on the airport, the certificate holder shall limit air carrier operations to those portions of the airport not rendered unsafe by those conditions.

